THIRTEENTH REPORT

OF THE

BOARD OF RAILWAY COMMISSIONERS FOR CANADA

FOR THE YEAR ENDING MARCH 31

1918

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[No.20c.—1919.]

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Sir H. L. DRAYTON, K.C., *Chief Commissioner.*

D'ARCY SCOTT, *Assistant Chief Commissioner.*

Hon. W. B. NANTEL, K.C., LL.D., *Deputy Chief Commissioner.*

S. J. MCLEAN, M.A., LL.B., Ph.D., *Commissioner.*

A. S. GOODEVE, *Commissioner.*

A. C. BOYCE, K.C., *Commissioner.*

A. D. CARTWRIGHT,
Secretary.

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REPORT

OF THE

BOARD OF RAILWAY COMMISSIONERS FOR CANADA

To the Governor in Council:

Pursuant to the provisions of section 62 of the Railway Act, as amended by section 12 of chapter 32, 8-9 Edward VII, the Board of Railway Commissioners for Canada has the honour to submit its Thirteenth Report for the year ending March 31, 1918.

Since the submission of the Board's last report the Railway Act has been amended under and by virtue of chapter 37, 7-8 George V, entitled "An Act concerning the payment of salaries or wages of employees of railway companies, and to otherwise amend the Railway Act," assented to the 20th September, 1917. The following is the amendment referred to:—

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section two hundred and fifty-nine of The Railway Act is amended by adding thereto the following subsection:—

"(3) The salary or wages of every person employed in the operation, maintenance or equipment of any railway company, to which the Parliament of Canada has granted aid by means of subsidy or guarantee, shall be paid not less frequently than semi-monthly during the term of employment of such person."

2. Paragraph (e) of clause thirty-four of section two of the said Act is amended by adding at the end thereof the following:—

"including any such compensation payable under the provisions of any Act of the Parliament of Canada, or of any provincial Legislature providing for compensation to workmen for injuries, or in respect of an industrial disease."

3. Section fifty of the said Act is amended by adding the following at the end thereof:—

"but where such regulation, order or decision requires any act, matter or thing to be done for the safety of the public or the employees of the railway, no extension shall be granted without hearing on notice."

4. Subsection one of section two hundred and forty-six of the said Act is amended by inserting immediately after the word "maintained" in the third line thereof, the words "along or."

5. Section two hundred and sixty-nine of the said Act is amended by adding thereto the following paragraphs:—

"(*d*) with respect to the length of sections required to be kept in repair by employees of the company, and with respect to the number of employees required for each section, so as to ensure safety to the public and to employees;

"(*e*) limiting or regulating the hours of duty of any employees or class or classes of employees, with a view to the safety of the public and of employees; and,

"(*f*) providing that a specified kind of fuel or a specified kind of power or method or means of propulsion shall be used on any or all locomotives and trains in any district."

6. Subsection two of section two hundred and seventy-four of the said Act is repealed and the following is substituted therefor:—

"(2) Where a municipal by-law of a city or town prohibits such sounding of the whistle or such ringing of the bell in respect of any such crossing or crossings within the limits of such city or town, such by-law shall, if approved by an order of the Board to the extent of such prohibition, relieve the company and its employees from the duty imposed by this section."

7. Subsection one of section two hundred and seventy-six of the said Act is repealed and the following is substituted therefor:—

"276. Whenever in any city, town or village, any train not headed by an engine is passing over or along a highway at rail level which is not adequately protected by gates or otherwise, the company shall station on that part of the train, which is then foremost, a person who shall warn persons standing on, or crossing, or about to cross the track of such railway."

8. Subsection one of section two hundred and ninety-two of the said Act is amended by adding at the end thereof:—

"Any conductors or other employees making a report to the company of the occurrence of any such accident shall as soon as possible after such accident notify the Board of the same by telegraph."

9. Section three hundred of the said Act is repealed and the following is substituted therefor:—

"300. (1) A superior or county court judge, two justices of the peace, or a stipendiary or police magistrate, in any part of Canada, a clerk of the peace, clerk of the Crown or judge of the sessions of the peace in the province of Quebec, within whose jurisdiction the railway runs, may, on the application of the company or any clerk or agent of the company, appoint any persons who are British subjects to act as constables on and along such railway.

"(2) Every person so appointed shall take an oath or make a solemn declaration, which may be administered by any judge or other official authorized to make the appointment or to administer oaths, in the form or to the effect following, that is to say:—

"I, A. B., having been appointed a constable to act upon and along (here name the railway), under the provisions of the Railway Act, do swear that I am a British subject; that I will well and truly serve our Sovereign Lord the King in the said office of constable, without favour or affection, malice or ill-will; that I will, to the best of my power, cause the peace to be kept, and prevent all offences against the peace; and that, while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge the duties thereof faithfully according to law. So help me God."

"(3) Such appointment shall be made in writing signed by the official making the appointment, and the fact that the person appointed thereby has taken such oath or declaration shall be endorsed on such written appointment by the person administering such oath or declaration."

10. Subsection one of section three hundred and six of the said Act is amended by striking out the word "one," in the third and fifth lines thereof, and substituting therefor the word "two."

11. Section three hundred and eight of the said Act is repealed and the following is substituted therefor:—

> "308. The company may, for the better enforcement of the observance of any such by-law, rule or regulation, prescribe a penalty not exceeding forty dollars for any violation thereof, and such penalty shall be enforceable on summary conviction."

12. Subsection three of section three hundred and ten of the said Act is repealed and the following is substituted therefor:—

> "(3) No such by-law, rule or regulation shall have any force or effect without such sanction or after such sanction has been rescinded."

13. Paragraph (*d*) of section three hundred and ninety-three is repealed and the following is substituted therefor:—

> "(*d*) Whenever in any city, town or village, any train of the company not headed by an engine is allowed to pass over or along a highway at rail level which is not adequately protected by gates or otherwise, the company does not station on that part of the train, which is then foremost, a person who shall warn persons standing on or crossing or about to cross the track of such railway."

14. Section three hundred and ninety-four of the said Act is amended by adding thereto the following subsection:—

> "(2) No employee shall be liable to such penalty if he proves that the carrying out or observing of the rules of the company was the cause of such obstruction, and in such case the company and its superintendent or other officer in charge of the operation of the railway, or of the division thereof upon which such obstruction occurs, shall each be guilty of the offence mentioned in this section and liable to a penalty not exceeding two hundred dollars."

15. This Act shall come into force on the first day of January, one thousand nine hundred and eighteen.

PUBLIC SITTINGS OF THE BOARD.

During the year covered by the period from April 1, 1917, to March 31, 1918, the Board held 59 public sittings, at which 391 applications were heard. The number of public sittings held in the various provinces were as follows:—

Province.	Number.
Ontario	41
Quebec	4
Manitoba	2
Saskatchewan	4
Alberta	5
British Columbia	3
Total	59

The applications include a variety of matters falling within the jurisdiction of the Board under the Railway Act, from the complaint of a private individual to larger matters of general public interest affecting the community as a whole.

FORMAL AND INFORMAL MATTERS.

The number of informal matters dealt with by the Board, as distinguished from matters heard at public sittings, constitutes a considerable percentage of the total applications and complaints dealt with by it, that is to say, of a total of 3,611 applications and complaints received and dealt with by the Board, 20 per cent were set down for formal hearing, and 80 per cent were disposed of without the necessity of such formal hearing. Those informal complaints, dealt with and settled without the necessity of a hearing, entail in many instances a considerable amount of inquiry and consideration on the part of the Board's officials, and cover a wide range of subjects, as, for example, a complaint of a more or less trivial nature to a matter of general public interest affecting the community as a whole, or involving the application of some general principle regarding railway rates.

RAILWAY GRADE CROSSING FUND.

In accordance with the provision of section 7, of 8-9 Edward VII, chapter 32, entitled an Act to amend the Railway Act, provision was made that the sum of $200,000 each year, for five consecutive years from the 1st day of April, 1909, was appropriated and set apart from the Consolidated Revenue Fund for the purpose of aiding in the providing by actual construction work of protective safety, and conveniences for the public in respect of highway crossings of the railway at rail level, in existence on the said 1st day of April, the said sums to be placed to the credit of a special account to be known as "The Railway Grade Crossing Fund," to be applied by the Board, subject to certain limitation set out in the amending Act, solely towards the cost (not including that of maintenance and operation) of actual construction work for the purpose specified.

In dealing with such crossing, the Board issued, between the 1st day of April, 1909, and the 31st March, 1918, 397 orders, providing protection at 444 crossings as follows:—

By electric bells	241
By gates	108
By subways	50
By overhead bridges	20
By diversion of highways	20
By closing of streets	3
By removal of view obstructions	3
By shelter	1
By towers	2

It will be seen by comparing the total number of crossings protected with the Twelfth Annual Report of the Board that the increase for the year ending March 31, 1918, in number of crossings protected, numbers 36 made up as follows:—

By electric bells	15
By gates	17
By subway	1
By diversion of highways	2
By removal of view obstruction	1
By shelter	1
By towers	2

NOTE.—Thirty-six crossings and thirty-nine protections consequent on account of two bells being ordered at one crossing, and extra tower at two crossings.

In connection with the granting of aid to protective works under this fund, attention is again directed to the fact that the Board has found that the limitation imposed by the Act has prevented contributions being made in as large a degree as would seem

to be proper in the public interest in connection with the larger schemes for elimination of grade crossings. Such works in the larger cities will run into amounts exceeding $100,000, and occasionally as high as several million dollars, so that the limitation of $5,000 (not to be applied to more than three crossings in any one municipality, or more than once to any one crossing) fixed by the Act, would be a mere fraction of the total amount involved.

GENERAL DECISIONS AND RULINGS OF THE BOARD.

Submitted herewith are some of the more important matters dealt with by the Board at its public sittings for the year ending March 31, 1917. A synopsis of the Board's judgments will be found under Appendix "A" to this report.

GENERAL ORDERS ISSUED BY THE BOARD.

The following is a brief summary of some of the matters dealt with under the Board's General Orders:—

Direction that the minimum weights proposed in certain tariffs of the Canadian Pacific and Grand Trunk Railway Companies fixing a minimum weight of 50,000 pounds per car for flour when loaded in cars of the capacity of 60,000 pounds or 70,000 pounds be disallowed, the railway companies being permitted to increase the minimum weight for flour to 45,000 pounds per car when loaded in cars of said capacity, not to be made effective before April 30, 1917. It was further provided that should the railway company, for its own convenience, furnish a larger capacity car in lieu of a car of 60,000 pounds or 70,000 pounds capacity required by the shipper, the minimum weight should be that for the car so required, provided the weight actually loaded did not exceed the maximum load for the type of car so required.

Direction that certain through "rail and water" class-rates between Eastern and Western Canada be suspended and that certain through "rail and water" class-rates applying between Eastern and Western Canada immediately in effect prior to the close of navigation, 1916, be restored until further order of the Board.

Direction that certain regulations for the Uniform Maintenance of Way Flagging Rules for Impassable Track, to become effective June 1, 1917, be prescribed for the observance of every railway company within the legislative authority of the Parliament of Canada, and rescinding the Board's General Order No. 161, dated February 23, 1916.

Direction amending rule No. 3 of the Canadian Freight Classification No. 16, by providing that each car, except the car carrying the excess, must be loaded to its visible or marked capacity, and fixing the classification minimum at not less than 24,000 pounds per car.

Direction that Canadian Freight Classification No. 16 be amended to provide a carload rating of third class, with a minimum of 16,000 pounds, on ice-cream cones.

Direction amending rule 23 of the Regulations Governing Baggage Car Traffic in Canada, by providing that immigrant baggage will be stored free of charge for any portion of a period of, but not exceeding, five days after arrival at ports of Montreal, Toronto and Winnipeg.

Direction that certain tariffs showing charges for ice supplied to refrigerator cars, which were suspended by the Board's General Orders Nos. 164 and 165, be disallowed.

Authorization of supplement No. 9 to Canadian Freight Classification No. 16, subject to certain provisions affecting proposed carload ratings and minimum weights for games or toys, other than those of iron or steel, and that popped-corn or puffed-rice confectionery be added to the grocery list of the classification.

Authorization to amend the Express Classification for Canada, so as to increase the weight upon which the express charges for the carriage of horses are based from 10,000 pounds to 12,000 pounds per carload.

Direction that the Grand Trunk, Canadian Pacific and Michigan Central Railway Companies' tariffs be amended by striking out certain clauses relating to cartage charges, and providing that cartage charges will be collected on the basis of actual weight, subject to the minimum provided by the Canadian Freight Classification.

Provision that in municipalities where barbed wire is prohibited all railway companies subject to the Board's jurisdiction be forbidden to use barbed wire in the future construction or reconstruction of fences along their respective lines of railway, subject to exceptions.

Direction that the Board's General Order No. 187 be rescinded in connection with the matter of "rail and water" rates between Eastern and Western Canada, and that the existing "rail and water" rates on sugar to Port Arthur, Fort William, and Westfort, for furtherance, be continued in effect.

Direction that each railway company subject to the Board's jurisdiction be required to equip its locomotives used in road service, between sunset and sunrise, with headlights which will enable persons with normal vision in the cab of a locomotive, under normal weather conditions, to see a dark object the size of a man for a distance of 1,000 feet or more ahead of the locomotive.

Direction that the Board's Order No. 3249, approving Canadian Freight Classification No. 13, be amended so that any person or company violating the provisions of section 400, subsection 1, of the Railway Act, or any amendment thereto, shall in addition to the regular toll be liable to pay the company a further toll of fifty percentum of such regular charge.

Authorization of the Canadian Car Demurrage Rules superseding the Canadian Car Service Rules prescribed by Order of the Board No. 906 (General Order No. 1), dated January 25, 1906.

Direction amending regulations for the transportation by freight of dangerous articles other than explosives and certain particulars, all reference to paints being eliminated from the said regulations.

Direction that all railway companies subject to the Board's jurisdiction be required to stencil inches on the inside walls of cars used in the grain traffic in the provinces of Manitoba, Saskatchewan and Alberta, so as to show the depth of grain loaded therein, and that all such cars hereafter built be so stencilled before going into service.

Direction that General Order No. 173 be rescinded, in so far as it rescinds General Order No. 152, and that the tolls for the use of refrigerator cars for the carriage of vegetables, provided by said tariffs refiled and as authorized by the Board's General Order No. 152, be allowed.

Direction that the carload minimum weights for lumber, for domestic consumption or for export, be fixed for closed cars under 35 feet in length, inside measurement, 33,000 pounds, except that when cars loaded to full capacity will not contain 40,000 pounds, the minimum will be the actual weight, but not less than 35,000 pounds, and for closed cars 35 feet and not over 36 feet 6 inches in length, inside measurement, 40,000 pounds.

Direction that certain standard tariffs of maximum mileage tolls for the carriage of passengers, and granting certain increases to railway companies, in both Eastern and Western territories, be approved.

Direction that General Order No. 188 be amended by providing that frequent service shall mean nine or more trains per diem, and that fast train service shall mean a service at a speed of thirty-five miles or more an hour.

Authorization of certain tariffs of the railway companies, increasing the aggregate minimum weight of less-than-carload shipments of fresh meat, dressed poultry, packing-house products, butter and eggs, when loaded in refrigerator cars on private sidings, from 9,000 to 12,000 pounds per car.

Direction that General Order No. 106 prescribing the rules and instructions for the inspection and testing of locomotive boilers and their appurtenances be amended in certain respects, and that the modifications provided remain in effect until December 31, 1918.

Authorization providing for the increase in certain standard passenger tariffs by 10 per cent and certain standard freight tariffs of railways by 15 per cent, and further providing that in the interest of uniformity the only fractional rate, if used, in the said standard freight tariffs be the half-cent, to be accounted the equivalent, inclusively, of twenty-five hundredths to seventy-four hundredths of a cent.

Direction that General Orders Nos. 95 and 160 be amended to provide that during the existence of the Canadian Railway Association for national defence and the continuance of the zone divisions under chairmen, that the zone chairmen shall file copies of all embargo notices to the Secretary of the Board, within the time limited by the said General Orders, and relieving the railway companies from filing such notices.

Direction amending rule No. 3 of the Canadian Car Demurrage Rules by providing that delays beyond free periods allowed for any two or more purposes under the rule shall be aggregated and charged for in accordance with rule 9, unless reconsignment effects actual transfer of ownership of the goods, in which case the charge against the new consignee for delay beyond the free unloading period shall begin with the lowest toll.

Authorization fixing the minimum carload weights of tan bark when carried under special commodity tariffs.

Provision that certain tariffs of the Pere Marquette, Canadian Pacific, Grand Trunk and Canadian Northern Railway Companies providing for the transportation of packing-house products, fresh meats, and other articles in peddler cars, be revised so as to include oleomargarine as packing-house products.

Authorization of certain amendments in the regulations for the transportation of explosives, by providing that dangerous explosives, for which a certified and placarded car is prescribed, must not be loaded higher than the car lining, and that when the loading of a car consists of or includes explosives, the weight of the loading should be distributed so that it will be equalized on each side of the car and over the tracks.

Re INCREASE IN FREIGHT AND PASSENGER RATES, CANADIAN RAILWAY COMPANIES.

In April, 1917, the railway companies subject to the jurisdiction of the Board, because of the increased costs of labour, equipment, coal and materials, which had added largely to the general expenses of operating railways, made application to the Board for authority to increase their freight and passenger rates 15 per cent, except on coal, on which a specific increase of 15 cents per ton was asked. The applications are commonly referred to as the 15 Per Cent Case.

The applications as originally filed were unaccompanied by notices to representative public bodies. Under the direction of the Board, notices were given. The following public hearings were held:—

At Victoria on June 5.
At Vancouver on June 6.
At Toronto on June 12.
At Nelson on June 16.
At Calgary on June 18.
At Edmonton on June 19.
At Montreal and Saskatoon on June 20.
At Regina on June 21.
At Winnipeg on June 22.
At Fort William on June 25.

At some points the application was opposed without qualification; at other points a qualified opposition was raised; while at others no objections were taken.

Judgment issued on the 26th December, 1917, dealing fully with the financial position of the companies and the enhanced cost of conducting transportation, and permitting the increases desired, with certain modifications, as set out in the judgment, the full text of which will be found under Appendix "C."

As a result of protests which were made by live stock shippers' associations, lumber shippers' associations, and grain shippers' associations, as well as the application of the Government of the province of Manitoba, for leave to appeal from the judgment herein, a sitting of the Board was held at Ottawa, on Thursday, the 10th of January, 1918, to consider these protests.

It was determined at the sitting to give leave to the Government of Manitoba to appeal on the questions of law, on which that Government desired to appeal to the Supreme Court of Canada. The other protests referred to were not disposed of.

The matter that the Board considered in connection with these protests was the effective date which should be given to the Board's judgment.

Judgment on these protests issued January 15, 1918, the 1st day of February being fixed as the date on which the various increases were to take effect. This judgment is given "in extenso" under Appendix "A."

The following General Order No. 212 was issued:—

"In the Matter of the applications of the Canadian Northern, Toronto, Hamilton and Buffalo, Grand Trunk, Grand Trunk Pacific, Canadian Pacific, New York Central, Kettle Valley, and Great Northern Railway Companies and the Michigan Central and Pere Marquette Railroad Companies, on behalf of themselves and other railway companies operating in Canada subject to the jurisdiction of the Board for a recommendation to the Governor in Council, under The War Measures Act, being chapter 2 of the Statutes of Canada for the year 1914 (second session), permitting all such railway companies to make a general advance in their tariffs of tolls of fifteen per cent on all class and commodity freight rates, except coal, and on all passenger fares; and a specific increase of fifteen cents per ton on coal.

File No. 27840.

"TUESDAY, the 15th day of January, A.D. 1918.

"Sir Henry L. Drayton, K.C., Chief Commissioner.
"D'Arcy Scott, Assistant Chief Commissioner.
"Hon. W. B. Nantel, Deputy Chief Commissioner.
"S. J. McLean, Commissioner.
"A. S. Goodeve, Commissioner.

"Upon hearing the matter at the sittings of the Board held in Victoria, Vancouver, Nelson, Calgary, Edmonton, Saskatoon, Regina, Winnipeg, Fort William, Toronto, Montreal and Ottawa on the 5th, 6th, 16th, 18th, 19th, 20th, 21st, 22nd, 25th, 12th and 20th days of June, 1917, and the 10th day of January, 1918, respectively, in the presence of counsel for and representatives of the Canadian Pacific, Grand Trunk, Grand Trunk Pacific, Canadian Northern, and New York Central Railway Companies, the Michigan Central Railroad Company, the Boards of Trade of Vancouver, Nelson, Calgary, Edmonton, Saskatoon, Regina, Winnipeg, Toronto, Montreal, and Kitchener, the Canadian Manufacturers' Association, Kitchener Manufacturers' Association, British Columbia Lumber and Shingle Manufacturers, Limited, Wholesale Lumbermen's Association of Winnipeg, Rat Portage Lumber Company, Limited, the Adolph Lumber Company, Retail Coal Dealers, Retail Merchants Association of Canada (Manitoba branch), Canadian Credit Men's Association, Winnipeg Implement Association, Stone Dealers' Association, St. Catharines Fruit Growers' Association, Willow Point District Fruit Growers' Association, Koot-

enay Fruit Growers' Union, United Farmers of the West, United Farmers of Ontario, Saskatchewan Grain Growers' Association, Northwest Grain Dealers' Association, Winnipeg Grain Exchange, Saskatoon Co-operative Elevator Company, Dominion Livestock Record Board, Western Livestock Association, Canadian Council of Agriculture, Council of Trail, City of Winnipeg, Province of Manitoba, Department of Public Highways for Ontario, Associated Boards of Trade of Eastern British Columbia, Dominion Canners, Price Brothers, and J. H. Ashdown & Company, the evidence adduced, and what was alleged; and upon reading the written submissions filed, judgments dated December 26, 1917, and January 15, 1918, were delivered by the Chief Commissioner and concurred in by the members of the Board who sat in the original hearings, certified copies of the said judgments, marked 'A' and 'B' respectively being attached hereto; and General Order No. 213, dated December 26, 1917, prescribing the standard maximum mileage tolls under the terms of the judgment of December 26, 1917, having issued,—

"*It is ordered:* That, subject to the provisions of the Crow's Nest Pass agreement and the said judgment of December 26, 1917, which is hereby made part of this Order, the special freight tariffs issued under the authority of the judgment, except those applying on wheat, in carloads, to Port Arthur and Fort William, be, and they are hereby required to be published and filed at least five days previous to the date on which they are to become effective, which date shall not be earlier than February 1, 1918.

"*And it is further ordered:* That the rates authorized by the judgment to be charged on wheat, in carloads, to Port Arthur and Fort William only, may be made effective not earlier than June 1, 1918.

H. L. DRAYTON,
Chief Commissioner.

The Privy Council of Canada in this connection issued the following Orders in Council, namely, P.C. 229 and P.C. 632:—

"P.C. 229

"AT THE GOVERNMENT HOUSE AT OTTAWA.

"WEDNESDAY, the 30th day of January, 1918.

PRESENT:

"HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

"His Excellency the Governor General in Council, pursuant to the provisions of section 56 of the Railway Act, chapter 37, Revised Statutes of Canada, 1906, having had under consideration the petitions from the Government of the province of Manitoba, the Winnipeg Board of Trade (shipping section), the Western Retail Lumbermen's Association of Winnipeg, and others, appealing from the Order of the Board of Railway Commissioners for Canada, dated the 26th day of December, 1917, providing for a general advance in freight and passenger rates; and after hearing counsel for the petitioners and others, is pleased to direct that the further hearing of the appeal be adjourned until Friday the 1st day of March, 1918, at 11 o'clock a.m.; that those who are supporting the appeal shall file their case in the Privy Council office, in printed form, and also serve it upon those who are opposing the appeal, on or before the 8th day of February, 1918; that those who are opposing the appeal shall file and

serve their reply on or before the 18th day of February, 1918, and that those who are supporting the appeal shall be allowed to file and serve a rejoinder, all in printed form, on or before the 28th day of February, 1918. The hearing shall then be continued on the 1st day of March, 1918.

"His Excellency is further pleased to declare it to be open to all interested parties to file separate cases if they desire to do so, or if they see fit, to join in the presentation of one case.

"If they see fit, however, to file separate cases it is most advisable that they should get into consultation with each other in order that there may not be repetition. It is desirable both in the interest of those who are supporting the appeal, and particularly of those who are to go over this case, that repetition be avoided.

"His Excellency the Governor General in Council is further pleased to order and doth hereby order that the operation of the rates which under the order appealed from would otherwise come into force on the first day of February, 1918, be postponed until the fifteenth day of March, 1918.

"Whereof the Board of Railway Commissioners for Canada, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

"Certified copies hereof shall forthwith be transmitted to the Board of Railway Commissioners for Canada, to counsel for the petitioners and other interested parties.

F. K. BENNETTS,
Assistant Clerk of the Privy Council."

"P.C. 632.

"AT THE GOVERNMENT HOUSE AT OTTAWA.

"THURSDAY the 14th day of March, 1918.

PRESENT:

"HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

"His Excellency the Governor General in Council, pursuant to the provisions of section 56 of the Railway Act, chapter 37, Revised Statutes of Canada, 1906, has had under consideration the petitions referred to in the Order in Council P.C. 229, of the 30th January, 1918, and other petitions appealing from the order of the Board of Railway Commissioners for Canada, dated 26th day of December, 1917, providing for a general advance in freight and passenger rates, and has heard counsel for the petitioners and others, and has heard a further argument advanced at the adjourned hearing of such appeal on the 1st day of March, 1918, and has considered all cases filed and all replies and rejoinders, and is pleased to Order that the said Order of the Board of Railway Commissioners be amended, and the same is hereby amended, by providing that the same shall cease to operate one year after the declaration of peace following the present war.

"His Excellency the Governor General in Council is further pleased to order that the going into effect of the said order of the Board of Railway Commissioners, as herein amended, be not further postponed.

"Whereof the Board of Railway Commissioners for Canada and all other persons whom it may concern are to take notice and govern themselves accordingly.

"Certified copies hereof shall forthwith be transmitted to the Board of Railway Commissioners for Canada, to counsel for the petitioners and other interested parties.

RODOLPHE BOUDREAU,
Clerk of the Privy Council.

CARRIERS—DISCRETION.—BOARDS OF TRADE OF MONTREAL AND TORONTO AND CANADIAN MANUFACTURERS' ASSOCIATION V. CANADIAN FREIGHT ASSOCIATION.

Rail carriers engaged in the business of transportation via a rail and water route, in competition with an all-water route, may, in their discretion, meet water competition if they see fit, and may also determine the extent to which they shall meet it, and the Board cannot interfere with the tariff of tolls filed.

Blind River Board of Trade v. Grand Trunk, Canadian Pacific Ry. Northern Navigation and Dominion Transportation Cos., 15 Can. Ry. Cas. 146, followed.

The Board has no jurisdiction over the tolls charged or the division demanded by the different steamship companies operating boats on the St. Lawrence or Great Lakes, except that under section 333 (3) it has jurisdiction over the tolls on the steamships owned, operated and used by the respondent Canadian Pacific Railway Company.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated March 29, 1917, 21 Can. Ry. Cas.

LANDS—TAKING—CANADIAN PACIFIC RAILWAY COMPANY V. GRAND TRUNK PACIFIC RAILWAY COMPANY.

There is a marked distinction between lands granted for right-of-way and other railway purposes and those granted as subsidies; the latter are in the same position as a cash bonus, and part of the remuneration for the building of the railway. The respondents should be ordered to pay their proportion of the cost of the land required for the construction of a transfer track.

Montreal Tramway and Montreal Park and Island Ry. Co. v. Lachine, Jacques Cartier & Maisonneuve Ry. Co., 50 S.C.R. 84 at p. 92, 19 Can. Ry. Cas. 122; South Ontario Pacific Ry. Co. v. Grand Trunk Ry. Co. (Junction Cut case), 20 Can. Ry. Cas. 152, followed.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, dated March 29, 1917, 21 Can. Ry. Cas.

TRAIN SERVICE—EAST GREENFIELD PARK V. MONTREAL & SOUTHERN COUNTIES RAILWAY COMPANY.

Suburban populations, usually dependent on electric railways for ingress and egress to and from large cities, should have a satisfactory train service.

Where no train stopped at Greenfield Park, a station on an electric railway (9.46 miles from Montreal) between 8.16 a.m. and 3.18 p.m. the Board ordered another train, passing at 10.15 a.m. for Montreal, to stop at Greenfield Park.

The facts are fully set out in the judgment of the Assistant Chief Commissioner dated March 29, 1917, 21 Can. Ry. Cas.

WEIGHTS—MINIMUM.—DOMINION MILLERS' ASSOCIATION, TORONTO BOARD OF TRADE AND MONTREAL CORN EXCHANGE V. CANADIAN FREIGHT ASSOCIATION.

The Board is not concerned with equalizing costs of production; its jurisdiction relates only to reasonableness of tolls.

Hudson Bay Mining Company v. Great Northern Railway Company, 16 Can. Ry. Cas. 254, at p. 259; Canadian Portland Cement Company v. Grand Trunk and Bay of Quinte Railway Companies, 9 Can. Ry. Cas. 209, at p. 211, followed.

In fixing a C.L. minimum, it is in the general interest to increase loading wherever reasonably possible and thereby increase the efficiency of the rolling stock.

In matters of classification and tolls established trade conditions or obligations, while not of necessity conclusive obstacles in the way of change, must be considered; it is a question of judgment what is a fair mean between the physical carrying power of the car and the public interest as affected thereby and the conditions under which business is carried on.

Western Retail Lumbermen's Association v. Canadian Pacific, Canadian Northern and Grand Trunk Pacific Railway Companies, 20 Can. Ry. Cas. 165.

The facts are fully set out in the judgment of Mr. Commissioner McLean, dated March 30, 1917, 21 Can. Ry. Cas.

JURISDICTION—TELEPHONES.—JOLIETTE TELEPHONE COMPANY V. BELL TELEPHONE COMPANY.

The Board has jurisdiction to order connection and fix tolls for long distance business, but it has none in the case of connection for local business.

Bell Telephone Company v. Falkirk Telephone Company, 20 Can. Ry. Cas. 256, followed.

In the case of connecting telephone companies it is the duty of both companies to collect the full amount for long distance tolls and the company should not absorb its share of the through long distance toll.

Ernestown Rural Telephone Company v. Bell Telephone Company, 18 Can. Ry. Cas. 325, followed.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated April 4, 1917, 21 Can. Ry. Cas.

AMERICAN COAL AND COKE COMPANY V. MICHIGAN CENTRAL RAILWAY COMPANY.

An application for a re-hearing in this case was refused and the Board's decision, 17 Can. Ry. Cas. 256, was affirmed.

The Board will not reconsider its former decision unless doubt has arisen in the minds of the Board as to the correctness of the first conclusion by reason of new matter advanced on an application to re-open or otherwise as to the soundness of the first conclusion, or when new evidence on a material issue can be presented.

The facts are fully set out in the judgment of Mr. Commissioner McLean, dated April 12, 1917, 21 Can. Ry. Cas.

TOLLS—DEMURRAGE.—TORONTO BOARD OF TRADE VS. CANADIAN FREIGHT ASSOCIATION.

Carriers are entitled to recover demurrage tolls for detention of equipment owing to delay in inspection of grain by Government officials, and the shipper has the right under the Canada Grain Act, 2 George V, chapter 27, section 71, to recover from the inspector for neglect or refusal to inspect.

The latter are liable to shippers under the Canada Grain Act, 2 George V, Chapter 27, section 71, for neglect or refusal to make such inspection.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, concurred in by Mr. Commissioner McLean, dated April 27, 1917, 22 Can. Ry. Cas.

PROVINCE OF MANITOBA V. CANADIAN PACIFIC RAILWAY COMPANY.

(Telephone Connection and Communication Case.)

The Board has no jurisdiction, under section 245 of the Railway Act, to compel a railway company to continue the maintenance of telephonic connection and communication between its stations and the telephone system, already installed, of the appli-

The Board has no jurisdiction, under sections 284 and 317 of the Railway Act, to prevent the removal (at the instance of the municipalities within whose limits railway stations are situate) of telephones installed at such stations.

The "facilities clause," section 284 of the Railway Act, refers to physical transportation and physical accommodation on the railway.

Telephonic communication with a railway station to be acquainted with the movement of the pasenger or freight trains is not a facility which railway companies are required to furnish to the public under section 284.

Towns of Port Arthur and Fort William v. Bell Telephone and Canadian Pacific Railway Companies, 4 Can. Ry. Cas. 279, at p. 284; People's and Caledon Telephone Companies v. Grand Trunk and Canadian Pacific Railway Companies, 9 Can. Ry. Cas. 161, at p. 162, referred to.

The facts are fully set out in the judgment of Mr. Commissioner McLean, dated May 1, 1917, 21 Can. Ry. Cas.

TOLLS—ICING.—ONTARIO FRUIT GROWERS' ASSOCIATION AND PACKING HOUSE COMPANIES VS. CANADIAN FREIGHT ASSOCIATION.

Railway companies should not profit by shipments handled except as carriers. The tolls for in-transit icing of refrigerator cars should be made up on the basis of the average actual cost of the ice and the placing thereof upon the cars. Upon an analysis of the different cost factors the proposed increase in the icing tolls is not justified.

Ontario Fruit Growers' Association v. Canadian Pacific Railway Company (Canadian Freight Association) (Fruit Growers case) 3 Can. Ry. Cas. 430, at pp. 431-2, followed.

The tolls on salt in refrigerator cars, owing to the gradual development of its use in connection with the packing industry, have been treated as an incident of its refrigeration and it is claimed is properly included in the icing toll therefor. The carriers have justified the toll for salt over and above a toll for icing in the tariffs of tolls now in force.

Ontario Fruit Growers Association v. Canadian Pacific Railway Company (Canadian Freight Association) (Fruit Growers case), 3 Can. Ry. Cas. 430, distinguished.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by the Chief Commissioner and Assistant Chief Commissioner, and dated May 23, 1917, 22 Can. Ry. Cas.

JURISDICTION—OPERATION.—CITY OF TORONTO VS. CANADIAN NORTHERN RAILWAY COMPANY.

(Don Valley Shunting Case.)

Unless it can be established that a railway company in carrying on its undertaking authorized by Parliament upon its own property, in a manner which is calculated to do as little harm to adjacent owners as possible, is not exercising as much care as it might, to lessen the noise of operation, the Board has no jurisdiction to interfere. It is not incumbent upon the Board to summon offending parties before the court of the province for violation of its own order and a municipal by-law regulating the omission of smoke from railway locomotives.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated May 31, 1917, 21 Can. Ry. Cas.

FARM CROSSING.—LUSTY VS. PERE MARQUETTE RAILWAY COMPANY.

A provision in a deed of lands taken for right of way by a railway company, that the consideration is to include full compensation and indemnity for all damage or

injury to the property by reason of the railway, does not constitute a relinquishment of the right to a farm crossing over the railway lands.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated June 21, 1917, 21 Can. Ry. Cas.

JURISDICTION—BRIDGE.—INTERNATIONAL BRIDGE & TERMINAL COMPANY V. CANADIAN NORTHERN RAILWAY COMPANY AND RUSSEL BROS.

Where a company is authorized by its charter to build a bridge and lay railway tracks upon it, but has no power to build a railway the Board has no jurisdiction to authorize it to build a branch line of railway under section 175, 3 Edward VII, chapter 58 (Railway Act, 1903).

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated August 1, 1917, 21 Can. Ry. Cas.

TOLLS—SWITCHING.—PREMIER COAL COMPANY V. CANADIAN FREIGHT ASSOCIATION.

This was an application for an order directing the respondent to abolish the toll charge of $2 per loaded car for switching more than 1,000 feet on the ground that it was inequitable and bore no relation to the services rendered.

The application was heard at Calgary, July 10, 1917.

The Board disallowed a toll of $2 for switching and spotting movements on spurs more than 1,000 feet in length of cars loaded with coal, without expressing any opinion on the general question of fixing a limit for free switching service.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, concurred in by the Chief Commissioner, dated September 26, 1917.

O'BRIEN BROS. V. CANADIAN PACIFIC RAILWAY COMPANY.

The mere acquisition of lands on both sides of a railway right of way does not *per se* give a right to a farm crossing. The original owner having lost his right to a crossing by conveying the lands on one side to another person, a subsequent owner purchasing the lands on both sides from different vendors does not thereby acquire a right to a farm crossing to connect them. The Board, however, has jurisdiction under section 253 to order a crossing, which it will exercise in a proper case and on proper terms.

See Grand Trunk Railway Company v. Therrien, 30 S.C.R., 485; Midland Railway Company v. Gribble (1895), 2 Ch. 129, 827.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated September 29, 1917, 21 Can. Ry. Cas.

TOLLS—UNJUST DISCRIMINATION.—DOMINION MILLERS' ASSOCIATION V. CANADIAN FREIGHT ASSOCIATION.

Application was made to the Board for an order directing the respondent association to charge the same milling-in-transit toll to western and eastern flour mills on the ground of unjust discrimination, and was heard at a sittings of the Board in Toronto, April 13, 1917.

Held that it is unjust discrimination to charge a higher milling-in transit toll on the same commodity moving from different localities by different routes under similar circumstances and conditions to a common competing market.

Ontario and Manitoba Flour Mills v. Canadian Pacific Railway Company, 16 Can. Ry. Cas., 430, at p. 431, referred to.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by the Assistant Chief Commissioner and Mr. Commissioner Goodeve, and dated October 3, 1917, 22 Can. Ry. Cas.

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JURISDICTION—TOLLS—SOUTHERN ALBERTA HAY GROWERS V. CANADIAN PACIFIC RAILWAY COMPANY.

(Timothy Seed Case.)

The jurisdiction of the Board is confined to dealing with the reasonableness of tolls, and it is not its function to put in experimental tolls with a view to developing industry.

British Columbia News Company v. Express Freight Traffic Association, 13 Can. Ry. Cas. 176, at p. 178, followed.

The facts are fully set out in the judgment of Mr. Commissioner McLean, dated October 5, 1917, 21 Can. Ry. Cas.

CITY OF HAMILTON V. GRAND TRUNK RAILWAY COMPANY.

(Burlington Beach Case.)

When respondent steam lines have been paralleled by electric lines, which have taken practically all the business, and ordering the respondent to give an increased service, might secure a better service from the electric line, such an order would not be justified in the public interest, where this could only be done at an unjustifiable cost and entail a continuing loss to the respondent.

A specific breach of an agreement must be shown to give the Board jurisdiction under 8 and 9 Edward VII, chapter 32, section 1.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, dated October 13, 1917, 21 Can. Ry. Cas.

JURISDICTION—TELEPHONE—NORTH LANCASTER EXCANGE V. BELL TELEPHONE COMPANY.

Two and three Edward VII, chapter 41, section 2, limits the Board's jurisdiction to direct the installation of a telephone service but gives the Board no power in regard to facilities such as it has in the case of railway companies.

Tinkess v. Bell Telephone Company, 20 Can. Ry. Cas. 249, at p. 255, followed.

The facts are fully set out in the judgment of Mr. Commissioner McLean, dated November 2, 1917, 21 Can. Ry. Cas.

JURISDICTION—RAILWAY ON HIGHWAY.—CITY OF MONTREAL V. CANADIAN PACIFIC RAILWAY COMPANY.

(Longue Pointe Spur Case.)

In dismissing an application by a railway company to construct a spur on a highway, the Board has no jurisdiction to impose terms on the municipality concerned as to the use it should make of the highway in question. The Board's jurisdiction is confined to authorizing the construction and maintenance of the railway on the highway.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated December 4, 1917, 21 Can. Ry. Cas.

APPEALS FROM DECISIONS OF THE BOARD.

For the year ending March 31, 1918, there were two appeals made to the Governor in Council, and three appeals to the Supreme Court of Canada from the decisions of the Board.

With reference to the appeals to the Governor in Council, one was that of the corporation of the city of Hamilton against an Order of the Board, dated November 10, 1917, dismissing the application of the city for an Order directing the Grand Trunk Railway Company to restore the passenger train service on the north and northwestern

branch of the company's railway between the city of Hamilton and Burlington Beach and the town of Burlington, and the appeal is still pending.

The other appeal was that of the province of Manitoba, the Western Retail Lumbermen's Association, the United Farmers of Ontario, the Canadian Credit Men's Trust Association, the Shippers' Section of the Winnipeg Board of Trade, and the Canadian Council of Agriculture, against the decision of the Board allowing a general increase in freight and passenger rates as authorized by the Board's Order, dated December 26, 1917, and which appeal is still pending.

With reference to the appeals to the Supreme Court of Canada referred to, the first was that of the Grand Trunk Railway Company, on questions of law, from an Order of the Board, dated July 26, 1917, requiring the company upon the application of one Hubert Bourassa to reconstruct and provide at its own cost a crossing under its tracks as set out in the Order.

The second appeal was that of the Canadian Pacific Railway Company from an Order of the Board, dated August 3, 1917, made upon the application of the Department of Public Works of the province of Ontario, under section 237 of the Railway Act, for an Order directing the Canadian Pacific Railway Company to construct and maintain a public crossing over its right of way on the line between lots 8 and 9, concession 5, in the township of Kirkpatrick, in the district of Nipissing, province of Ontario. The appeal was made upon the following question of law, namely: "Whether upon the facts found by the Board, the title of the railway company is subject to a prior right reserved in the Crown to construct and maintain a public crossing over the railway company's right of way, as applied for by the Department of Public Works for the province of Ontario, herein." This appeal is still pending.

The third appeal was that of the Governor of the province of Manitoba and the J. H. Ashdown Hardware Company, Limited, against an Order of the Board, dated December 26, 1917, authorizing a general increase in freight and passenger rates as set forth therein, the appellants maintaining that the effect of the Order and the holding of the Board is that the Board is not limited by the agreement made between His Majesty the King, represented by the Executive Government of the province of Manitoba, and the Canadian Northern Railway Company by the Statutes of Manitoba, 1901, chapter 39, or by the Statutes of Canada, 1901, chapter 53, in its power to increase or authorize the increase in the tolls and rates to an amount exceeding the tolls established for the carriage of goods and passengers upon the lines of the Canadian Northern Railway Company referred to in the said agreements and statutes. This appeal is still pending.

ORDERS, GENERAL ORDERS AND CIRCULARS.

The total number of orders issued for the year ending March 31, 1918, was 1,118. The number of General Circulars issued by the Board, directed to all railway companies subject to its jurisdiction for the year was 9. The General Orders as distinguished from other Orders issued by the Board are those affecting all railway companies subject to the Board's jurisdiction. It will be noted that the number of General Orders issued by the Board for the year ending March 31, 1918, was 46, as compared with 22 for the previous year.

A list of the General Orders and Circulars for the year ending March 31, 1918, will be found compiled under Appendix "F" to this report.

JUDGMENTS OF THE BOARD.

A summary of the principal judgments of the Board delivered between the 1st of April, 1917, and the 31st of March, 1918, will be found under Appendix "A."

APPLICATIONS TO THE BOARD.

The total number of applications, including informal complaints made to the Board, for the year ending March 31, 1918, was 3,611.

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TRAFFIC DEPARTMENT OF THE BOARD.

In the Traffic Department of the Board the number of tariffs received and filed for the year ending March 31, 1918, were as follows:—

Freight tariffs, including supplements	41,877
Passenger tariffs, including supplements	14,781
Express tariffs, including supplements	2,856
Telephone tariffs, including supplements	4,388
Sleeping and parlour car tariffs, including supplements	142
Telegraph tariffs and supplements	12

This makes a total of 64,056 for the year, as compared with a previous total for the year ending March 31, 1917, of 67,628. The total number of tariffs filed from February 1, 1904, to March 31, 1918, was 784,656.

The details in regard to the tariffs will be found under Appendix "B" to this report.

ENGINEERING DEPARTMENT OF THE BOARD.

In the Engineering Department of the Board a large number of inspections were made covering the whole Dominion. These inspections for the year ending March 31, 1918, number 217, and cover inspections for the opening of a railway for the carriage of traffic, pursuant to the requirements of section 261 of the Railway Act, inspections of culverts, highway crossings, cattle guards, road crossings, bridges, subways and general inspections falling within the scope of the work of the Engineering Department of the Board.

OPERATING DEPARTMENT OF THE BOARD.

Under the work of this department is included the inspection of locomotive boilers and their appurtenances, the inspection of safety appliances on cars and locomotives, the investigations into accidents causing personal injury or loss of life, the reporting on the locations of stations, matters of protection at highway crossings, and train and station service performed by the railway companies.

Under Appendix "C" will be found a detailed report of the Chief Operating Officer of the department.

ACCIDENTS AND ACCIDENT INVESTIGATIONS.

On reference to the report of the Board's Chief Operating Officer it will be seen from the comparative statement of killed and injured that the number of accidents among passengers carried and employees, as compared with the year 1916-17, shows a marked decrease with regard to the number killed, but a marked increase with regard to the number injured; and with regard to trespassers, a marked decrease in the number killed and an increase in the number injured. The figures given show that the number of passengers killed and injured for the year ending March 31, 1917, was 296, and for the year ending March 31, 1918, 364, an increase of 68. The total number of employees killed and injured for the year 1916-17 was 1,329 and for the year 1917-18, 1,357, an increase of 26. In this connection it will be noted, by reference to the table given below, that the total number of passengers carried on railways shows a decided increase, and the number of employees with railways also a marked increase, and these facts must be taken in connection with the increase in the total number of killed and injured.

Attention is again directed to the comparative statements of the Chief Operating Officer setting forth in detail the situation as regards highway crossing accidents during the past five years, and it will be observed therefrom that there has been a total of 621 accidents covering 180 persons killed, and 566 persons injured. There have been 158 accidents at protected crossings covering 71 persons killed and 140 persons injured, and at unprotected crossings there have been 463 accidents covering 209 killed and 426 injured.

In the year 1917-18 there were 48 automobile accidents at highway crossings, in which 31 persons were killed and 77 injured. Thirty-nine of these accidents occurred at unprotected crossings, when 26 persons were killed and 58 injured. While these figures show a considerable increase over the automobile accidents for the year 1916-17, which numbered 36 and in which 20 persons were killed and 54 injured, it is not possible, in the absence of definite statistics as to comparative volume of automobile traffic, to make an accurate comparison with previous years. This matter, it may be stated, is receiving every consideration at the hands of the Board as to the best method of protection at highway crossings where the same are used extensively by automobiles.

As has been pointed out in previous reports, there are many instances where the public disregard is evidenced in respect to protective appliances, by persons crawling under gates or going around them, or disregarding the alarm given by automatic signal bells.

The following is a table giving comparisons between the total number of passengers carried by the railway companies, the number of passengers killed and injured, and the same information as to employees, and as to trespassers, showing the number of trespassers killed and the relative percentage thereof to the total number of persons killed for the year. The figures giving the total number of passengers and employees carried are for the year ending June 30, 1917, the last figures available, and are taken from the railway statistics of the Dominion of Canada, published by the Department of Railways and Canals:—

Passengers—	
Number of passengers carried on railways	53,749,680
Number of passengers killed	22
Number of passengers injured	342
Employees—	
Number of employees with railways	146,175
Number of employees killed	137
Number of employees injured	1,220
Trespassers—	
Number of trespassers killed	93
per cent of trespassers killed to total of 252.	

It will be noted that of what may be termed preventable loss there were 93 killed under the heading of trespassers, and 61 injured. This is a reduction of 36 in the number killed and 15 in the number injured from the year 1916-17.

The following table shows the totals by provinces as regards trespassers killed and injured for the year ending March 31, 1918:—

Provinces.	Killed	Injured.
Ontario	[illegible]	29
Quebec	29	20
Manitoba	[illegible]	[illegible]
Saskatchewan	6	[illegible]
Alberta	[illegible]	4
British Columbia	[illegible]	2
Nova Scotia	[illegible]	[illegible]
New Brunswick	1	1
Yukon	....	....
	93	61

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FIRE INSPECTION DEPARTMENT OF THE BOARD.

The railway fire inspection work has been carried on, as in former years, in co-operation with the various Dominion and provincial fire-protective organizations. During the past year 78 employees of such organizations were under appointment as local officers of the Board, in connection with the administration of the various regulations contained in General Order No. 107.

Special fire patrol letters were issued to the following railway companies in connection with fire patrols in forest sections: Algoma Central and Hudson Bay; Esquimalt and Nanaimo; Canadian Northern; Canadian Northern Pacific; Canadian Pacific; Edmonton, Dunvegan and British Columbia; Grand Trunk; Grand Trunk Pacific; Great Northern; Kettle Valley; Temiscouata; Victoria and Sidney; Western Canada Power. Supplementing the special patrol measures, instructions relative to the reporting and extinguishing of fires have been issued by the various railway companies to sectionmen and other regular employees, with excellent results.

In co-operation with the Operating Department of the Board, many inspections were made of fire protective appliances on locomotives operating in forested territory.

The fire guard requirements issued in 1917 were closely similar to those prescribed the previous year. Authority was granted the Canadian Pacific, Grand Trunk Pacific and Canadian Northern railways to handle the fire guarding of wild lands on the more northerly lines in the Prairie Provinces, on the basis of an eight-foot ploughed strip instead of a sixteen-foot ploughed strip, provided special attention was given to the burning of dry grass and weeds between the fire guard and the track. Under the fire guard requirements, 10,994.26 miles of fire guards were constructed in the Prairie Provinces by the Canadian Pacific, Canadian Northern, Edmonton, Dunvegan and British Columbia, Grand Trunk Pacific, and Great Northern Railways.

In forest sections, 843 fires were reported as being directly attributable to railway causes, out of a total of 1,097 fires originating within 300 feet of the track, along lines subject to the Board's jurisdiction. This is an increase of 455 fires from the figures for fires attributable to railways for 1916. The fires definitely attributable to railway causes thus represent 76.84 per cent of the total, 7.84 per cent being ascribed to known causes other than railways, and 15.32 per cent to unknown causes. Of the fires chargeable to railway causes, 240 fires or 28.46 per cent, are incipient fires which did no damage; 603 fires, or 71.54 per cent are larger fires which burned over 27,263 acres valued at $25,819. The total damage from all fires is estimated at $105,668. Of this, the railways are charged with 24.43 per cent, known causes other than railway fires 12.88 per cent, and unknown fires 62.69 per cent. Thus, on all lines subject to the jurisdiction of the Board throughout Canada, the fires in forest sections definitely attributable to railway agencies did damage amounting to only $25,819. By far the greatest portion of the damage by fires originating within 300 feet of railway tracks in forest sections was due to fires of unknown origin; of these, undoubtedly a portion were due to railway causes.

ROUTINE WORK OF THE BOARD.

RECORD DEPARTMENT.

Since the publication of the last annual report there has been no change in connection with the clerical staff of this department.

Below is given a table setting forth the number of applications, filings and letters received during the year ending March 31, 1918, together with the number of orders issued:—

Number of applications made	3,611
Number of filings received during the year	37,270
Number of outgoing letters during the year	36,310
Number of orders issued during the year	1,118

STATEMENT showing the Application made to the Board under the various sections of the Railway Act, for the fiscal year ending March 31, 1918.

Sections of Railway Act	1917.									1918			
	April	May	June	July.	Aug	Sept.	Oct.	Nov.	Dec	Jan	Feb.	Mar	
Rescinding of Orders, Sec. 29	1	3	6	3	7	6	9	8	8	6	3	9	62
Rules and Regulations, Sec. 30, 299, 307, 314			1									1	2
Extension of time, Sec. 50	4	8	4	4	16	8	6	3	3	4		3	67
Location of line, Sec. 157, 168			1		1	1			1	1	1		10
Railway as constructed, Sec. 164		2	3	1	9			2	2	2	1	1	32
Deviation of line, Sec. 167	1		3	1	1	1	4	1	1			1	16
Mines and Minerals, Sec. 169, 171		1				1					1		3
Expropriation of lands, Sec. 172, 191	2			1	2	3		1		4			15
Appeals for Orders of the Board, Sec. 36					1	1			1	3	1		7
Compensation for damages, Sec. 194, 234				1									1
Private Lines, Sec. 222, 226	19	16	23	19	25	18	23	22	20	24	15	12	236
Railway Crossings and Junctions, Sec. 227, 229	4	4	6		1	2		1	3	1		1	25
Interlocking Agreements, Sec. 237	1	1	1		1	1				1	1		14
Highway Crossings, Sec. 235, 246	14	13	17	2	16	12	14	11	4		1	15	147
Highway Diversion, Sec. 237						1							23
Protection at Crossings, Sec. 243	3	2			8	16		11		15	2		23
Telegraph and Telephone Connections, Sec. 244		1	1		1	1			1		1	1	4
Telephone Wire Crossings, Sec. 246						1	1						2
Power Wire Crossings, Sec. 245			1		1	1	1			1			4
Telephone Agreements, Sec. 248	7	5	4	8	3	3	6	4		4	3	4	57
Canals, Ditches, etc., Sec. 249									1				1
Water Pipes, Sec. 250				3									3
Sewers, Sec. 250	1	1			1	3	1		3	1			15
Culverts, Sec. 250	1	1		1	1	2	2				1	1	15
Farm Crossings, Sec. 253, 252	3		2	4	2	1				1	1		17
Protection at Farm Crossings											1		1
Cattleguards, Sec. 254, 255		1										1	2
Fencing of right of way, Sec. 254		5	3	6		2		1		4	3		24
Constructions, Navigable Waters, Sec. 256	1							1	1				3
Bridges, Sec. 257..	4	3	6	4	7	7	5	3	5	3	2	3	37
Tunnels, Sec. 257 .						1							1
Stations, Sec. 258	8	10	7	1	10	6	5	4	1			2	51
Condition of Stations, Sec. 258				1							2	1	4
Station accommodation and Agents	13	16	16	11	6	2	13	10	4	6	1	12	110
Condition of Road Houses				1			2					2	5
Opening of Railway, Sec. 261 .	1	2	2	1	1			2	1	1		1	12
Condition of Railway, Sec. 262.	2	9	7	4	3	7	11	4	3	2	1	7	69

Rolling Stock, Sec. 264, 268	4	3		3	2	2		2	1	3	2	1	23
Train Service	9	7	5	6	4	3	2	1	5	12	5	17	76
Working of trains, Sec. 269	2	1	1	4	1	1	6	1	4	2	1	2	26
Obstruction to Traffic, Sec. 279			3		1			1			3		8
Accommodation for Traffic, Sec. 284	8	4	8	7	8	5	3	8	12	14	13	12	102
Packing of frogs, Sec. 285									1				1
Accident reports, Sec. 292	40	24	11	3	21	46	31	18	26	14	16	36	288
By-Laws *re* Tolls, Sec. 314	2	1			1	3	1					2	10
Interswitching, Sec. 317, 334		2		1		4	1			1		3	12
Freight Classification, Sec. 321	3	4		1		1	1	5	1	2	1	1	20
Forms of Tariffs, Sec. 322, 359		1	2										3
Disallowance of Tariffs, Sec. 323	1	4		2		1	2	3	3	1	2		19
Standard Freight Tariffs, Sec. 327			2			2	1	1	1	5		1	13
Standard Passenger Tariffs, Sec. 331	1					1	1		2	3		1	9
Local Freight Tariffs				1									1
International rates				1									1
Adjustment in rates	2		3	1	1	1	9	4	2	2		1	26
Special Tariffs, Sec. 229, 332	2	1		2	1	1		2		2	1	4	16
Joint Tariffs, Sec. 535			1								2		3
Provisions for carriage, Sec. 340, 342	2	6	1	1	2	1	4	2	1		1	5	24
Discrimination in express rates, Sec. 348					1								1
Express Tolls, Sec. 348, 354		1	1		1			1				2	6
Carriage by express, Sec. 352	1	1		3	1	1	2	2		4	1	1	17
Telephone Tolls, Sec. 355, 360				1					1				2
Amalgamation Agreements, Sec. 361, 363							2						2
Traffic Agreements, Sec. 364									1		1		2
Enquiries	11	15	14	10	9	8	10	8	8	14	17	28	146
Requests						1	2	6		4		2	16
Informal Complaints	147	148	121	100	86	72	105	123	84	134	128	120	1,368
Miscellaneous	7	14	3	10	9	5	18	10	6	22	15	18	152
Totals	332	351	293	284	279	265	316	315	239	324	269	344	3,611

OTTAWA, April 18, 1918.

(Signed) F. R. DEMERS,
Statistical Clerk.

APPENDIX A.

PRINCIPAL JUDGMENTS OF THE BOARD.

LANDS—TAKING—CANADIAN PACIFIC RAILWAY COMPANY V. GRAND TRUNK PACIFIC RAILWAY COMPANY.

There is a marked distinction between lands granted for right-of-way and other railway purposes and those granted as subsidies; the latter are in the same position as a cash bonus, and part of the remuneration for the building of the railway. The respondent should be ordered to pay their proportion of the cost of the land required for the construction of a transfer track.

Montral Tramway and Montreal Park and Island Railway Company v. Lachine, Jacques Cartier and Maisonneuve Railway Company, 50 S.C.R., 84 at p. 92, 19 Can. Ry. Cas., 122; South Ontario Pacific Ry. Co. v. Grand Trunk Ry. Co. (Junction Cut case), 20 Can. Ry. Cas., 152, followed.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, dated March 29, 1917, *21 Can. Ry. Cas., 95.*

CANADIAN PACIFIC RAILWAY COMPANY AND SPANISH RIVER PULP AND PAPER MILLS V. ALGOMA EASTERN RAILWAY COMPANY.

The Board is not bound, nor may the provisions of the Railway Act be defeated, by an agreement between two railway companies respecting tolls.

A provision in an agreement made in 1901 between two railway companies, whereby the former, in consideration of the latter undertaking to build a spur from its line to a pulp mill, agreed to build a connection between the two lines and switch loaded and empty cars for the latter company at $1.50 per loaded car, was abrogated by the Board in 1917, the tolls being found unremunerative, and the regular interswitching charge of 1 cent per 100 pounds applied under the General Interswitching Order No. 4988.

Crow's Nest Pass Coal Company v. Canadian Pacific Railway Company, 8 Can. Ry. Cas., 33; Lake Superior Paper Co. v. Algoma Central and Hudson Bay Ry. Co., 22 Can. Ry. Cas., 361, followed. *Village of Fergus v. Grand Trunk Ry. Co., 18 Can. Ry. Cas., 42,* distinguished.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, April 3, 1917. *22 Can. Ry. Cas., 381.*

JURISDICTION—TELEPHONES—JOLIETTE TELEPHONE COMPANY V. BELL TELEPHONE COMPANY.

The Board has jurisdiction to order connection and fix tolls for long-distance business but it has none in the case of connection for local business.

Bell Telephone Company v. Falkirk Telephone Company, 20 Can. Ry. Cas., 256, followed.

In the case of connecting telephone companies it is the duty of both companies to collect the full amount for long-distance tolls and the company should not absorb its share of the through long-distance toll.

Ernestown Rural Telephone Company v. Bell Telephone Company, 18 Can. Ry Cas., 325, followed.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated April 4, 1917. *21 Can. Ry. Cas., 443.*

SESSIONAL PAPER No. 20c

Re LYNN ROAD AND SIDE ROADS CROSSING GRAND TRUNK RAILWAY NEAR BROCKVILLE, ONT.

This matter was the subject of investigation by the Board in view of an accident at the Lynn Road crossing of the G.T.R. near the town of Brockville, Ont., resulting in death. It appeared that the Lynn road was one of the most important highways in the united counties leading into the town of Brockville. It further appeared from the evidence that the Board on May 1, 1916, made an Order requiring the company to protect the crossing by an electric bell, but that on July 15, 1916, application was made on behalf of the township of Elizabethtown for a subway at the crossing, it being submitted that the bell was not sufficient protection.

Held, Assistant Chief Commissioner Scott in his judgment, April 5, 1917, concurred in by Chief Commissioner Drayton and Commissioner Goodeve, that the diversion of the three highways at the point in question, and the construction of a subway, should be ordered, and the cost of the work divided among the township of Elizabethtown, the corporation of counties of Leeds and Grenville, the railway company, and the Railway Grade Crossing Fund; the work on the subway to be done by the G.T.R. Company and the diversions of the highways to be done by the two municipal councils as they should agree, and in the event of disagreement, the matter to be determined by the Board.

PROPOSED INCREASE IN RAIL AND LAKE RATES FROM POINTS IN WESTERN CANADA.

The Canadian Freight Association having filed with the Board Tariff No. 2 of class rates, which is C.R.C. No. 1 and C.F.A. Tariff No. 3, of commodity rates which is C.R.C. No. 2, issued respectively March 19 and 20, 1917, both effective April 23, 1917, protests against the tariff were received from a number of Boards of Trade of western cities and the Prairie Provinces' branch of the Canadian Manufacturers' Association, and the Board was asked to suspend the tariff until the railway companies had justified the proposed increase.

Held Assistant Chief Commissioner Scott in his judgment, April 7, 1917, concurred in by Commissioners McLean and Goodeve, that C.F.A. Tariffs C.R.C. Nos. 1 and 2, should be suspended, and that if the railway companies are inconvenienced by the suspension of the tariffs that it was entirely due to their own tardiness in the filing thereof with the Board.

Subsequently the matter was further considered at a hearing of the Board, when it was held that tolls reduced by a railway company to meet water competition may at the discretion of rail carrier, be brought up more closely to the normal level when water competition becomes less effective.

Dominion Millers' Association v. Grand Trunk and Canadian Pacific Ry. Cos., 12 Can. Ry. Cas., 363, at p. 368; "in re" Western Tolls (Western Freight Rates Case), 17 Can. Ry. Cas., 123, at pp. 123, 124, 159, 166, followed. Canadian Oil Cos. v. Grand Trunk, Canadian Pacific and Canadian Northern Ry. Cos., 12 Can. Ry. Cas., 350, at p. 351. Blind River Board of Trade v. Grand Trunk, Canadian Pacific Ry., Northern Navigation and Dominion Transportation Cos., 15 Can. Ry. Cas., 146. Boards of Trade of Montreal and Toronto and Canadian Manufacturers' Association v. Canadian Freight Association.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by Assistant Chief Commissioner Scott, November 6, 1917. *22 Can. Ry. Cas., 324.*

Re APPLICATION OF CANADIAN NORTHERN RAILWAY COMPANY, UNDER SECTION 257 OF THE RAILWAY ACT.

This was an application of the Canadian Northern Railway Company, under section 257 of the Railway Act, for approval of the plans showing a new subway at Water street, in the city of Winnipeg, province of Manitoba.

It appeared from the evidence that the Canadian Northern Railway Company, in 1908, constructed a subway to carry Water street, in the city of Winnipeg, under its tracks leading from its bridge over the Red river to its Winnipeg terminals, and that the plans for this subway were duly approved by the Board under Order dated June 7, 1905. The railway company now seeks approval of detail plans showing a change in the subway by the construction of a new structure crossing the highway some distance south of the present structure.

Held, Assistant Chief Commissioner Scott in his judgment, April 11, 1917, concurred in by Commissioner McLean, that it would not be safe to lower the grade at the west end of the Provencher Avenue bridge. Held further that the city of Winnipeg should proceed with the construction of its new bridge with a 5 per cent approach from the west; but that the railway company's application for approval of its detail plans should be refused and that the Board's Order No. 9292 should be amended by making it clear that the approval of the Board was to the layout of the station grounds and not to the freight track over Water street.

Held, further, by Commissioner McLean, in his memorandum attached to the judgment, that Order No. 9292 was made in misapprehension of the scope of what was covered by the bylaw and the agreement implementing it.

Re APPLICATION OF CANADIAN FREIGHT ASSOCIATION FOR APPROVAL OF PROPOSED CANADIAN FREIGHT CLASSIFICATION NO. 17.

The Board was asked by the parties representing both the railway companies and the shipping interests to make some announcement as to what procedure it would follow in connection with the application of the Canadian Freight Association for approval of proposed Canadian Freight Classification No. 17.

Held, Assistant Chief Commissioner Scott in his judgment, April 21, 1917, concurred in by Chief Commissioner Drayton and Commissioner McLean, that there was no present necessity for the Board to deal with the matter of further procedure but that after certain hearings scheduled to take place in the western provinces, a further discussion might be had.

Re DEMURRAGE RULES.

The Canadian Car Service Bureau submitted to the Board a new code of demurrage rules for approval, and at the same time asked that the provisions of General Order No. 174, effective January 1 to April 30, 1917, be continued in force pending the approval of the new rules.

Held, Chief Commissioner Drayton in his judgment, April 24, 1917, that General Order No. 174 was a temporary Order, and that under the circumstances it could not be renewed or further changes in the Order made, without the submission of necessary evidence and a necessary hearing or hearings.

TORONTO BOARD OF TRADE V. CANADIAN FREIGHT ASSOCIATION.

Carriers are entitled to recover demurrage tolls for detention of equipment owing to delay in inspection of grain by Government officials, and the shipper has the right under the Canada Grain Act, 2 George V, chapter 27, section 71, to recover from the inspector for neglect or refusal to inspect.

The latter are liable to shippers under the Canada Grain Act, 2 George V, chapter 27, section 71, for neglect or refusal to make such inspection.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, April 27, 1917. *22 Can. Ry. Cas., 93.*

SESSIONAL PAPER No. 20c

MACE AND CITY OF OTTAWA V. BELL TELEPHONE COMPANY.

An agreement between a municipality and a telephone company fixing the maximum tolls to be charged for a residence or business telephone does not prevent the telephone company, subject to the provisions of the Railway Act, from filing its tariff of tolls with the Board covering the tolls to be charged for other forms of telephone service, such as semi-public, and giving such service to the public.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, April 27, 1917, concurred in by the Deputy Chief Commissioner and Mr. Commissioner Goodeve. *23 Can. Ry. Cas., 137.*

Re CANADIAN PACIFIC RAILWAY ADDITIONAL TRACKING, NORTH TORONTO STATION EASTERLY.

It appeared that in order to accommodate its increased business the Canadian Pacific Railway Company desired to double track its main line from its North Toronto station easterly to a point a few hundred feet east of Leaside Junction, and that the company desired to build bridges over the ravines on the north side of their existing bridges.

Held, Assistant Chief Commissioner Scott in his judgment, April 27, 1917, concurred in by Commissioners McLean and Goodeve, that permission be granted to the company in accordance with its application, the company to file detail plans to provide for openings through its bridges in the ravines affected.

TOLLS DEMURRAGE—TORONTO BOARD OF TRADE V. CANADIAN FREIGHT ASSOCIATION.

Carriers are entitled to recover demurrage tolls for detention of equipment owing to delay in inspection of grain by Government officials, and the shipper has the right under the Canada Grain Act, 2 George V, chapter 27, section 71, to recover from the inspector for neglect or refusal to inspect.

The latter are liable to shippers under the Canada Grain Act, 2 George V, chapter 27, section 71, for neglect or refusal to make such inspection.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, concurred in by Mr. Commissioner McLean, dated April 27, 1917. *22 Canadian Railway Case 93.*

CITY OF BRANTFORD AND TOWNSHIPS OF BRANTFORD AND SOUTH DUMFRIES V. GRAND TRUNK RAILWAY COMPANY.

A municipality and a railway company by agreement (ratified by by-law) closed a portion of a highway, except for foot traffic. More than ten years after the highway was closed the municipality, alleging an improvident bargain, applied to the Board for an order requiring the respondent to construct a vehicular and pedestrian subway under the railway at the closed portion of the highway. The Board ordered the railway company to contribute 60 per cent of the cost of the pedestrian subway, after allowing a 20 per cent contribution out of the Railway Grade Crossing Fund, but held that as to vehicular traffic the agreement must stand and that if the city wished to construct a vehicular subway, the contribution of the respondent should not be increased.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, April 30, 1917, concurred in by Commissioners McLean and Goodeve. *23 Can. Ry. Cas., 7.*

PROVINCE OF MANITOBA V. CANADIAN PACIFIC RAILWAY COMPANY.

(Telephone Connection and Communication Case.)

The Board has no jurisdiction under section 245 of the Railway Act to compel a railway company to continue the maintenance of telephonic connection and communication between its stations and the telephone system, already installed, of the applicants.

The Board has no jurisdiction under sections 284 and 317 of the Railway Act to prevent the removal (at the instance of the municipalities within whose limits railway stations are situate) of telephones installed at such stations.

The "facilities clause," section 284 of the Railway Act, refers to physical transportation and physical accommodation on the railway.

Telephonic communication with a railway station to be acquainted with the movement of the passenger or freight trains is not a facility which railway companies are required to furnish to the public under section 264.

Towns of Port Arthur and Fort William v. Bell Telephone and Canadian Pacific Ry. Cos., 4 Can. Ry. Cas., 279, at p. 284; People's and Caledon Telephone Cos. v. Grand Trunk and Canadian Pacific Ry. Cos., 9 Can. Ry. Cas., 161, at p. 162, referred to.

The facts are fully set out in the judgment of Mr. Commissioner McLean, dated May 1, 1917. *21 Can. Ry. Cas. 445.*

NEW BRUNSWICK VEGETABLE GROWERS V. CANADIAN PACIFIC AND TEMISCOUATA RAILWAY COMPANIES.

An increase in freight tolls on potatoes and turnips from points in New Brunswick to points in Ontario and Quebec was approved by the Board, with the exception that tolls west of Hamilton and Guelph should be reduced one cent upon the general basis of eighth-class under the classification tapered downwards for the shorter easterly haul from New Brunswick in comparison with the longer haul from the western provinces.

The facts are fully set out in the judgment of Mr. Commissioner McLean, May 2, 1917, concurred in by the Assistant Chief Commissioner. *23 Can. Ry. Cas., 128.*

CANADIAN PACIFIC RAILWAY COMPANY V. CITY OF MONTREAL AND MONTREAL TRAMWAYS COMPANY.

Under the senior and junior rule the highway being senior to the railway no part of the cost of reconstructing the bridge on the highway over the railway should be put upon the respondent city, but the respondent tramways company being junior to the railway, one-fourth of the cost of reconstruction to make the bridge strong enough to carry electric cars should be imposed upon it.

Toronto Railway Co. v. City of Toronto, and Canadian Pacific Ry. Co. (Avenue Road Subway Case), 53 S.C.R., 222, 20 Can. Ry. Cas., 280, followed.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, May 2, 1917, concurred in by Mr. Commissioner McLean. *23 Can. Ry. Cas., 31.*

REGINA BOARD OF TRADE V. CANADIA PACIFIC RAILWAY COMPANY.

Carriers may in their discretion meet water competition by reducing tolls; they may also in their discretion restore tolls to a normal basis when water competition ceases.

Dominion Millers Association v. Grand Trunk and Canadian Pacific Ry. Cos., 12 Can. Ry. Cas., 363, at p. 368, followed.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by Assistant Chief Commissioner Scott, May 3, 1917. *22 Can. Ry. Cas., 315.*

MIDLAND RAILWAY COMPANY OF MANITOBA V. GRAND TRUNK PACIFIC RAILWAY COMPANY.

Ownership of a block of land and approval of a plan of railway located thereon do not give seniority at the place of crossing over another railway whose location plan was approved and line built prior to the construction of the first-mentioned railway upon a new location on another portion of the same block of land.

The Assistant Chief Commissioner, dissenting, was of opinion that the ownership of the land with the right to build a railway thereon gave seniority.

Canadian Northern Ry. Co. v. Canadian Pacific Ry. Co. (Kaiser Crossing Case), 7 Can. Ry. Cas., 297; Grand Trunk Pacific Ry. Co. v. Canadian Pacific Ry. Co. (Nokomis Crossing Case), 7 Can. Ry. Cas., 299; Canadian Northern Ry. Co. v. Canadian Pacific Ry. Co., 11 Can. Ry. Cas., 432; City of Edmonton v. Calgary and Edmonton Ry. Co., 16 Can. Ry. Cas., 420, at p. 423; affirmed, 53 S.C.R., 406, at p. 415, 22 Can. Ry. Cas., 182; South Ontario Pacific Ry. Co. v. Grand Trunk Ry. Co. (Junction Cut Case), 20 Can. Ry. Cas., 152, followed; Grand Trunk Ry. Co. v. United Counties Ry. Co. (St. Hyacinthe Crossing Case), 7 Can. Ry. Cas., 294; Erie and Ontario Ry. Co. v. Niagara, St. Catharines and Toronto Ry. Co., 18 Can. Ry. Cas., 29, distinguished.

The Board has jurisdiction to regulate the crossing of a provincial over a Dominion railway at the point of intersection.

Lake Erie and Northern Ry. Co. v. Brantford Street Ry. Co., 16 Can. Ry. Cas., 244, at p. 245; Attorney General for Alberta v. Attorney General for Canada (1915), A.C. 363, 19 Can. Ry. Cas., 153; City of London v. London Street Ry. Co., 19 Can. Ry. Cas., 436, followed.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, May 3, 1917. *23 Can. Ry. Cas., 80.*

APPLICATION OF JAMES LYNCH FOR DAMAGES OR COMPENSATION FOR INJURY TO HIS PROPERTY IN CONNECTION WITH THE RAISING OF THE GRAND TRUNK RAILWAY COMPANY'S TRACKS ON PINNACLE STREET, BELLEVILLE, ONT.

The following complaint was made to the Board by property owner in connection with the raising of the Grand Trunk Railway Company's tracks on Pinnacle street, Belleville, Ont., when the Canadian Pacific and Canadian Northern Ontario Railway Companies' tracks were built into Belleville, namely:—

> "The Canadian Northern Ontario Railway Company constructed its line of railway through the city of Belleville, Ont. In so doing, the company crossed Front and Pinnacle streets and took a northerly part of a coal shed and yard belonging to James Lynch. Mr. Lynch's property extends from Front street easterly to Pinnacle street. The roadway of the said railway is several feet higher than the level of the said city streets. The Grand Trunk Railway Company has a railway line running along the said Pinnacle street and near to the easterly boundary of Mr. Lynch's property, which is part of lot No. 13A, on the west side of said Pinnacle street. On account of the construction across Pinnacle street of the Canadian Northern Ontario railway, the Grand Trunk Railway has raised its railway opposite to Mr. Lynch's property. Mr. Lynch claims that he is entitled to compensation for injury to his property which results through the foregoing railway construction."

In so far as the Grand Trunk Railway Company was concerned, the position taken by it was that any elevation of its tracks made on Pinnacle street was done

by the Canadian Northern Ontario and Canadian Pacific Railway Companies when their lines were carried across Pinnacle street. It was stated at the hearing that the effect of the embankment of the Canadian Northern Ontario Railway Company on Pinnacle street and the raising of the track of the Grand Trunk on Pinnacle street was that water runs into the coal shed and collects there and freezes; that the exit from the coal shed to Pinnacle street was alleged to have been altered so materially that its use had become less valuable.

Held, Commissioner McLean in his judgment, May 7, 1917, concurred in by Assistant Chief Commissioner Scott and Commissioner Goodeve, that the matters involved in the present application were before the arbitrators, who dealt with the matter of the taking by the Canadian Northern Ontario Railway Company of the lands of the complainant Lynch in their award dated March 25, 1914, and were considered by them, and that the Board, therefore, refused to take any action in the matter.

Re APPLICATION OF THE GRAND TRUNK RAILWAY COMPANY TO MOVE ITS DARLINGTON STATION.

It appeared that in or about the year 1905 the Grand Trunk Railway Company in order to improve the grades on its railway constructed a new line through a portion of the township of Darlington, some distance south of its existing line, and abandoned the old line; that Darlington station was situated on the portion of the abandoned line. The railway company informed the municipal council of the township of Darlington and the residents in the locality of the old Darlington station that it would establish a new Darlington station on the new portion of the railway, but that it required assistance from the municipality and the residents towards the construction of a suitable highway as an approach to the proposed station. This assistance was supplied, the highway built and the new Darlington station established at mileage 294·25. The Darlington station thus established did not prove remunerative to the company and the company applied to the Board for permission to move its station some distance west to mileage 296·35.

Held, Assistant Chief Commissioner Scott in his judgment, May 11, 1917, concurred in by Commissioner Goodeve, that the Grand Trunk Railway Company be granted leave to remove its station on condition that it first pay back all money supplied by any individuals towards the construction of the highway approach to the station; also that a further condition be imposed upon the company, that in the event of its station being moved it establish a flag station at the bridge which carries the first highway east of the present station over the railway tracks.

Re FREIGHT ACCOMMODATION, CANADIAN PACIFIC RAILWAY COMPANY'S STATION AT LESAGE, QUE.

Lesage is a flag station on the Mont Laurier branch of the Canadian Pacific Railway, and is about eight miles north of St. Jerome and about a mile south of Shawbridge, both St. Jerome and Shawbridge being agency stations.

After an inspection on the premises the Board's Inspector recommend that the freight shed at Lesage should be enlarged so that it be not less than 25 feet by 15 feet, inside measurements.

Held, Assistant Chief Commissioner Scott in his judgment, May 15, 1917, concurred in by Deputy Chief Commissioner Nantel, that the suggested arrangement of the Board's officer should be carried out and the additional accommodation furnished.

Held, Commissioner McLean, in dissenting judgment, that the increase in the size of the freight shed was premature.

SESSIONAL PAPER No. 20c

Re WESTERN GRAIN CROP, 1916.

Representations were made to the Board, from time to time, as to the urgent necessity of having the movement of the western grain crop for the year 1916, expedited. It appeared that the movement of the crop had been unsatisfactorily delayed owing to a variety of causes, the chief among which being ocean transportation, railway congestion in Eastern Canada and the United States, and general shortage of rolling stock throughout the country. It further appeared that the district which suffered most was that known as the Goose Lake, and which hauls to the Saskatoon elevator.

In connection with the movement of grain the Board recognized that under the Act the duty of the respective railway companies lies in the first instance to the shippers on their respective lines.

Held, Chief Commissioner Drayton in his judgment, May 15, 1917, concurred in by Assistant Chief Commissioner Scott and Commissioners McLean and Goodeve, that an Order should issue upon similar lines to the Order issued a year ago, *see 21 Can. Ry. Cas. 38*, under which the Grand Trunk Pacific must, so long as it can continue to do so and so long as the emergency exists, supply cars at the rate of 75 per day, and the Canadian Pacific 50 per day, to the Canadian Northern at the transfer track at Saskatoon, these cars to be taken into the Goose Lake district by the Canadian Northern, loaded and returned to the Grand Trunk Pacific and Canadian Pacific on the same basis as that applicable last year.

CANADIAN MANUFACTURERS' ASSOCIATION V. CANADIAN FREIGHT ASSOCIATION.

Ice-cream cones should be given a C.L. rating of third-class with a minimum of 16,000 pounds.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, May 16, 1917, concurred in by the Deputy Chief Commissioner and Commissioners McLean and Goodeve. *23 Can. Ry. Cas., 48.*

In re "FOLLOW LOT" RULE NO. 3, CANADIAN FREIGHT CLASSIFICATION.

In this complaint there was involved the denial by the railway companies of the benefit of the "follow lot" rule of the Canadian Freight Classification in connection with the publication of the commodity rates authorized in the *Eastern Rates Case*, and in connection, also, with the westbound transcontinental commodity rates which were made effective September 20, 1916. These tariffs carry the following new rule: "Rule 3 of the Canadian Freight Classification No. 16 will not apply in connection with rates named herein," or words to the same effect.

The classification rule referred to dealing with the "follow lot" rule reads, in so far as it is material, as follows:—

> "When more than the minimum carload weight of freight classifying fifth-class or higher in carloads, and provided the classification minimum is not less than 20,000 pounds per car not exceeding 36 feet 6 inches in length, is shipped on the same day by one consignor, on one bill of lading, to one consignee at one destination, the established rate for a carload will apply on the entire consignment although it may be less than two or more full carloads, provided first car (or cars) is loaded to the classification minimum, in which event the balance shall be charged the carload rate, actual weight.
>
> "This rule will not apply on traffic any portion of which is loaded in refrigerator, tank, or on flat or gondola cars."

Held; Commissioner McLean in his judgment, May 18, 1917, concurred in by Assistant Chief Commissioner Scott, that Rule 3 should be amended as follows:—

(1) The words "provided first car (or cars) is loaded to the classification minimum" should be stricken out and replaced by the words "provided that such car, except the car carrying the excess, must be loaded to its visible or marked capacity."

(2) The words defining the classification minimum as being "not less than 20,000 pounds" should be stricken out and replaced by the words "not less than 24,000 pounds."

GRAND TRUNK RAILWAY COMPANY v. CITY OF HAMILTON.

A will devising a right of way to a certain class of individuals does not make a right of way, where it crosses a railway, a highway crossing; there being no evidence of the acceptance of a highway at that point by the municipality nor recognition of its existence by the railway company; the railway is senior to the highway at the point of crossing.

Village of Weston v. Grand Trunk and Canadian Pacific Ry. Cos. (Denison Avenue Crossing Case), 7 Can. Ry. Cas., 79; Town of St. Pierre v. Grand Trunk Ry. Co. (Simplex Avenue Crossing Case), 13 Can. Ry. Cas., 1; City of Montreal v. Canadian Pacific Ry. Co., 18 Can. Ry. Cas., 50, followed.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, concurred in by Mr. Commissioner McLean and Mr. Commissioner Goodeve, May 22, 1917. *22 Can. Ry. Cas., 442.*

Re STATION ACCOMMODATION AT ENTERPRISE, CANADIAN PACIFIC RAILWAY COMPANY.

It appeared that when the Canadian Pacific Railway Company was building its Lake Shore line under the charter of the Campbellford, Lake Ontario and Western Railway Company, it secured the approval of a location of a station on lot 27, concession S, township of Camden; that no station, platform, or other shipping facilities had been supplied by the company, and the township of Camden applied to the Board for an Order directing the company to build a suitable station at Enterprise, which was the name decided upon for the station by the company, and to install a regular agent.

Held, Assist Chief Commissioner Scott in his judgment, May 22, 1917, concurred in by Commissioner Goodeve, that from the estimates furnished of the probable business he was unable to say that the revenues of the company would amount to $15,000 a year, the minimum of revenue fixed by the Board when ordering the installation of an agent at a station in the western provinces.

Held, further, that the company should erect a platform 100 feet long with one of the company's No. 6 station, containing waiting room and freight shed, and erect a two-pen stockyard with loading pen and chute, and also provide a road leading to the team track wide enough for a wagon to turn upon.

Re [illegible]

It appeared that by an agreement, dated February 1, 1871, made between the Toronto, Simcoe & Muskoka Junction Ry. Co.—now the Northern division of the Grand Trunk—and the village of Orillia, the municipality gave a grant to the railway company of $12,500 and the railway company, among other things, agreed to erect and maintain a passenger and freight station upon grounds fronting on King street, on Gardner's survey, within the limits of the said corporation, with the centre line of the

station ground on the centre line of Peter street, produced south, and also the company should work and run the said railway, during the present year, from the said station in regular traffic connection with the town of Barrie and the city of Toronto. The station was actually established on the location fixed by the said agreement, but was subsequently abandoned.

Held, Assistant Chief Commissioner Scott in his judgment, May 23, 1917, concurred in by Commissioner Goodeve, that the Board could not fix the details of the layout at Orillia without giving the railway company an opportunity to submit further plans. Held further that the new passenger station should be located adjacent to the end of Peter street and that a plan showing the station as determined by the Board and the location of other facilities and tracks that will be most convenient, be filed with the Board.

TOOLS—ICING—ONTARIO FRUIT GROWERS' ASSOCIATION AND PACKING HOUSE COMPANIES V. CANADIAN FREIGHT ASSOCIATION.

Railway companies should not profit by shipments handled except as carriers. The tolls for in-transit icing of refrigerator cars should be made up on the basis of the average actual cost of the ice and the placing thereof upon the cars. Upon an analysis of the different cost factors the proposed increase in the icing tolls is not justified.

Ontario Fruit Growers' Association v. Canadian Pacific Ry. Co. (Canadian Freight Association) (Fruit Growers case) 3 Can. Ry. Cas., 430, at pp. 431-2, followed.

The tolls on salt in refrigerator cars, owing to the gradual development of its use in connection with the packing industry, have been treated as an incident of its refrigeration and it is claimed is properly included in the icing toll therefor. The carriers have justified the toll for salt, over and above a toll for icing, in the tariffs of tolls now in force.

Ontario Fruit Growers' Association v. Canadian Pacific Ry. Co. (Canadian Freight Association) (Fruit Growers Case), 3 Can. Ry. Cas., 430, distinguished.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by the Chief Commissioner and Assistant Chief Commissioner, and dated May 23, 1917, *22 Can. Ry. Cas. 98.*

CITY OF HAMILTON V. HAMILTON RADIAL ELECTRIC RAILWAY COMPANY.

When it is sought to open a highway across a railway, there must be evidence of intention to dedicate by the owner, acceptance by the municipality, user by the public, and expenditure of public money to keep the proposed highway in repair and fit for use to bring it within the category of a public highway under the Municipal Act, R.S.O. 1914, chapter 192, section 432. Without such evidence the proposed highway is junior to the railway and under the senior and junior rule the whole of the expenditure required will be placed on the applicant.

Gooderham v. City of Toronto, 25 S.C.R. 246, distinguished.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by Assistant Chief Commissioner and Mr. Commissioner Goodeve, May 25, 1917. *22 Can. Ry. Cas., 438.*

JORDAN CO-OPERATIVE COMPANY AND FRUIT GROWERS' ASSOCIATION V. CANADIAN EXPRESS COMPANY.

Where, after a thorough test of the extra car service ordered by the Board, the earnings on the express traffic from the points in question are unremunerative, being less than the operating costs, the Board directed that the service be discontinued.

The facts are fully set out in the judgment of Mr. Commissioner McLean, May 28, 1917, concurred in by the Assistant Chief Commissioner and Commissioner Goodeve. *23 Can. Ry. Cas., 55.*

Re INTERSWITCHING, TOWN OF THOROLD AND GRAND TRUNK AND NIAGARA, ST. CATHARINES AND TORONTO RAILWAY COMPANIES AT THOROLD, ONT.

This matter was first brought to the attention of the Board on an application from the Thorold Board of Trade in 1909, for an Order directing the construction of an interchange track between the Grand Trunk and the Niagara, St. Catharines and Toronto Railways, but the application in connection therewith was allowed to lapse. A further application was made to the Board, under date of April 28, 1913, when, after hearing, the matter was referred to the Board's Chief Operating Officer for investigation and report. After the report of the said officer the matter was again taken up at a sittings of the Board held in Toronto July 10, 1916, but no evidence was submitted and the application was withdrawn subject to its renewal at a later date. The matter again came before the Board for consideration at a hearing held in the town of Thorold on April 12, 1917, when it appeared from the evidence that conditions had entirely changed since the previous applications of the town, the tonnage which had been estimated in the former application at about 2,300 cars having increased to about 16,000 cars per annum, representing an increase of about 700 per cent, of which, it was estimated, that about 3,000 cars would be subject to interswitching.

Held, Commissioner A. S. Goodeve in his judgment, May 30, 1917, concurred in by Assistant Chief Commissioner Scott, that on the figures submitted the town of Thorold was entitled to an interchange track, and that the Grand Trunk and Niagara, St. Catharines and Toronto Railway Companies should be asked to consult together and submit to the Board a plan of transfer track, together with an estimate of cost thereof. *See 24 Can. Ry. Cas. 21.*

JURISDICTION—OPERATION—CITY OF TORONTO V. CANADIAN NORTHERN RAILWAY COMPANY. (DON VALLEY SHUNTING CASE.)

Unless it can be established that a railway company in carrying on its undertaking authorized by Parliament upon its own property, in a manner which is calculated to do as little harm to adjacent owners as possible, is not exercising as much care as it might, to lessen the noise of operation, the Board has no jurisdiction to interfere. It is not incumbent upon the Board to summon offending parties before the court of the province for violation of its own order and a municipal by-law regulating the emission of smoke from railway locomotives.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated May 31, 1917, *21 Can. Ry. Cas. 452.*

VILLAGE OF THAMESVILLE, "ET AL.," V. GRAND TRUNK RAILWAY COMPANY.

At the crossing in question, where there are four tracks and considerable shunting traffic, protection by an electric bell is not so satisfactory as at crossings where there are fewer tracks and less shunting, and the Board directed protection by gates, operated night and day, apportioning the costs of installation as follows: township of Howard, 10 per cent ; village of Thamesville, 15 per cent; Grand Trunk Ry. Co., 55 per cent; and Railway Grade Crossing Fund, 20 per cent; the township, the village and the railway to bear 10 per cent, 15 per cent and 75 per cent respectively of the costs of maintenance and operation, the statute not permitting anything to be given towards the costs of maintenance and operation from the fund.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, May 31, 1917, concurred in by Mr. Commissioner Goodeve. *23 Can. Ry. Cas., 33.*

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FARM CROSSING—LUSTY *v.* PERE MARQUETTE RAILWAY COMPANY.

A provision in a deed of lands taken for right of way by a railway company, that the consideration is to include full compensation and indemnity for all damages or injury to the property by reason of the railway, does not constitute a relinquishment of the right to a farm crossing over the railway lands.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated June 21, 1917. *21 Can. Ry. Cas. 93.*

CITY OF CHATHAM AND CHATHAM BOARD OF TRADE V. CANADIAN PACIFIC RAILWAY COMPANY.

It is not unjust discrimination nor undue or unreasonable prejudice or disadvantage under sections 315 (5), 318, for a carrier to charge lower than normal toll from the point of shipment to a destination point owing to effective water competition, than on shipments from the same point to an intermediate point where such competition is not effective.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, concurred in by Mr. Commissioner Goodeve, June 22, 1917. *21 Can. Ry. Cas., 391.*

Re APPLICATION HUBERT BOURASSA FOR CATTLE PASS, GRAND TRUNK RAILWAY.

This was an application by one Hubert Bourassa, of the parish of Laprairie, in the province of Quebec, the owner of lot 379 in said parish, for a cattle pass under the right of way of the Grand Trunk Railway Company.

It appeared from the evidence that when the railway was constructed the applicant's farm was crossed diagonally and divided into two large plots, and a cattle pass was established under the right of way. It further appeared that for over sixty years, and as late as 1916, this cattle pass had been repaired and rebuilt by the company, when necessary, but that recently it had been closed by the company against the wishes of the applicant. The company contended that the cattle pass in question never was a servitude within the meaning of the law, but was intended as a culvert for the drainage of surface water, and that if the applicant and his vouchees used it as a cattle-pass, they did so without a title, and that without a title no servitude could be established in the province of Quebec. The company also contended that the Board has no jurisdiction, also that the farm was provided with a grade crossing, and if the Board should order the cattle-pass the cost of rebuilding the undercrossing should be borne by the applicant; also that the applicant had offered to sell his right to the culvert for the sum of $600 which tended to show that the cattle pass was not absolutely necessary for the proper enjoyment of his farm.

Held, Deputy Chief Commissioner W. B. Nantel in his judgment, July 4, 1917, concurred in by Assistant Chief Commissioner Scott, that the width of 12 feet given to the culvert showed that it was not used principally for drainage, and that the right to the undercrossing was established and reserved by deed. Held further that the Board had jurisdiction to ascertain the existence of the right to a crossing as stated by the applicant, and that the existence of a level farm-crossing should not deprive him of his right to an undercrossing, which was manifestly of considerable value to him. The company were, therefore, directed and ordered to rebuild the cattle-pass as it was in existence under their railway track previous to the year 1916.

Held, Commissioner McLean in his judgment, July 13, 1917, that the application did not establish any reservation in the deed of the applicant in respect of the alleged undercrossing nor could the same be presumed from the evidence. Held further that the case did not fall within the amending section as to agreements, the only section under which jurisdiction could be exercised. Held further that the jurisdiction conferred upon the Board in respect of agreements is an extraordinary one and is in

limitation of the ordinary jurisdiction possessed by the courts; that the Board could go no further than the jurisdiction so conferred; that the provincial courts had a wide jurisdiction in respect of the enforcement of agreements and that the opinion that the relief sought did not fall within the Railway Act did not interfere with the rights of the applicant, if any, which he might establish to the satisfaction of the provincial courts. *Seager v. Pere Marquette, File 11161*, referred to.

The G. T. R. appealed from this decision of the Board to the Supreme Court of Canada but before the appeal was heard the parties came to an agreement and notice of desistment was filed by Bourassa.

Re APPLICATION OF THE GREAT NORTHWESTERN TELEGRAPH COMPANY AND THE CANADIAN PACIFIC RAILWAY COMPANY'S TELEGRAPH FOR AUTHORITY TO AMEND THE CONDITIONS ON THEIR TELEGRAPH FORMS.

This was an application made by the telegraph companies for an Order, under section 340 of the Railway Act, that the Board's Order No. 162, dated March 30, 1916, approving the conditions on the telegraphic forms used by telegraphic companies subject to the jurisdiction of the Board on which messages to be transmitted are to be written, be amended. The following conditions to be inserted thereon:—

"It is agreed that this company, or any other company, forwarding this telegram to reach its destination, shall not be liable for damages toward either the sender or the addressee arising from failure to transmit or deliver, or for any delay or error in the transmission or delivery of any unrepeated telegram, whether happening from negligence of its servants or otherwise, or for delays from the interruptions in the working of its lines, for errors in cypher or obscure messages, or for errors from illegible writing, beyond the amount received for sending the same."

"To guard against errors, the company will repeat back any telegram for an extra payment of one-half the regular rate; and, in that case, the company shall be liable for damages suffered by the sender to an extent not exceeding $200, due to the negligence of the company in the transmission or delivery of the telegram."

"Correctness in the transmission and delivery of messages can be insured by contract in writing, stating agreed amount of risk, and payment of premium thereon at the following rates, in addition to the usual charge for repeated messages, viz.: One per cent for any distance not exceeding 1,000 miles, and 2 per cent for any greater distance."

"This company shall not be liable for the act or omission of any other company, but will endeavour to forward the telegram by any other telegraph company necessary to reaching its destination, but only as the agent of the sender and without liability therefor. The company shall not be responsible for messages until the same are presented and accepted at one of its transmitting offices; if a message is sent to such office by one of the company's messengers, he acts for that purpose as the sender's agent; if by telephone, the person receiving the message acts therein as agent of the sender, being authorized to assent to these conditions for the sender. This company shall not be liable in any case for damages, unless the same be claimed, in writing, within sixty days after receipt of the telegram for transmission."

"No employee of the company shall vary the foregoing."

These amendments are asked by the telegraph companies so that the same conditions shall prevail between a telegraph company and the addressee of a message as are provided between a telegraph company and the sender; and also that the same con-

ditions shall prevail in respect to the transmission of a message over connecting lines as are imposed between the sender and addressee and a telegraph company receiving the message for transmission.

Notice of the application was served upon the different Boards of Trade and commercial bodies; and, speaking generally, it was opposed by all of them who have paid any attention to the application.

The position taken by those opposed was that no limitation should be placed upon the liability of the telegraph companies, but that these companies should be liable for damages arising from any mistake, error, neglect, or delay in the transmission of messages that might occur.

Held, Chief Commissioner Drayton in his judgment, July 14, 1917, concurred in by Assistant Chief Commissioner Scott, Deputy Chief Commission Nantel and Commissioner McLean, that section 340 of the Railway Act does not enlarge the power of the companies to pass by-laws, regulations, etc., and that the telegraph company can only pass by-laws as may be necessary respecting the issue and transfer of shares and for the management of the affairs of the company generally; and that the Board was not prepared to hold that it had such a jurisdiction, although it would appear that the question could be covered by direct legislation by the Dominion in view of the decision in *Grand Trunk Railway vs. Attorney General of Canada (1907) A.C., 65.*

Held, further, that the application must be dismissed but that the companies should be given permission for a stated case for submission to the Supreme Court covering the different questions of law arising.

DOMINION MILLERS ASSOCIATION *v.* GRAND TRUNK AND CANADIAN PACIFIC RAILWAY COMPANIES.

The Board will not authorize an increase of remuneration in lake-and-rail tolls for the purpose of lessening a prohibitive "spread" between them and all-rail tolls of the same and other carriers between the same points, in order to induce part of the traffic to move all-rail and so to prevent the all-rail tolls from being "cut" by a carrier having no lake-and-rail route and desiring to participate in the traffic.

Having regard to the decision in the *Eastern Rates Case,* allowing an increase in general freight tolls east of Fort William (*ante,* p. 4) and the reasons for that decision, the Board held that reasonable increases in the tolls on grain and grain products east of Fort William should be allowed and approved revised tolls accordingly.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, concurred in by Mr. Commissioner Goodeve, July 17, 1917. *22 Can. Ry. Cas., 393.*

Re APPLICATION OF DEPARTMENT OF PUBLIC WORKS OF THE PROVINCE OF ONTARIO TO CONSTRUCT HIGHWAY ACROSS CANADIAN PACIFIC RAILWAY COMPANY'S TRACKS IN TOWNSHIP OF KIRKPATRICK, DISTRICT OF NIPISSING.

This was an application by the Department of Public Works of the province of Ontario to the Board for an Order directing the Canadian Pacific Railway Company to construct a crossing on the highway between lots 8 and 9, concession 5, in the township of Kirkpatrick, in the district of Nipissing, and province of Ontario. The question at issue between the parties was, who should pay for the construction of the crossing, it being urged by the railway company that it was senior to the highway and that, therefore, following the general rule of the Board in such case the applicant should bear the cost of the construction.

It appeared from the evidence that there are circumstances in connection with the title of the railway company to its right-of-way through the township of Kirkpatrick that were somewhat out of the ordinary, in as much as the title had not been acquired by purchase by the company from a private landowner, but by grant from the Dominion Government of certain lands transferred to that Government by the Ontario Government, subject to certain limitations and conditions.

Held, Assistant Chief Commissioner Scott in his judgment, July 19, 1917, that as the railway company obtained the lands subject to the limitations contained in clause 2 of 59 Victoria, chapter 11, and that as it was not clear from the reading of the section whether it meant that the rights were to be existing or that the highways were to be existing at the passing of the Act, that the province of Ontario should get the benefit of the doubt and be declared senior to the railway company, and that the cost of constructing the highway should be borne by the company. 24 Can. Ry. Cas.

Held, Commissioner McLean in his judgment, July 27, 1917, that Provincial Act, 59 Victoria, chapter 11, and that the Orders in Council issued respectively in 1866 and 1901, should be construed as reserving the public right of highways, but conveying an absolute title in all respects.

Held, further, that section 2 of the Provincial Act, 59 Victoria, chapter 11, referred to the rights of the public possessed under any declaration or Order in Council made by any authority competent to create or reserve them and which continued to exist at the time the Act was passed; and that the Order in Council of 1866 was passed by a competent authority and was unrepealed in 1901.

Held, further, that the highway in question should be treated in the same manner as an ordinary unopened highway allowance is treated, and that the cost of opening should be placed on the railway company. 24 Can. Ry. Cas.

An appeal from the decision of the Board to the Supreme Court of Canada was dismissed.—Brodeur and Mignault, J.J., dissenting.

Re INTERFERENCE AT PORT HOPE BETWEEN THE CANADIAN PACIFIC AND GRAND TRUNK RAILWAY COMPANIES.

An interchange was authorized at Port Hope between the Canadian Northern Railway Company and the Grand Trunk Railway Company by Order of the Board, dated March 13, 1913. It appeared, however, that owing to the expensive nature of the work which the Canadian Northern Railway would have to undertake that the interchange was never constructed. In the meantime the Board had before it for consideration the question of the construction of interchange tracks between the Canadian Pacific and Grand Trunk Railway Companies.

Held, Assistant Chief Commissioner Scott in his judgment, July 24, 1917, concurred in by Commissioner Goodeve, that owing to the peculiar layout of the town of Port Hope, which prevented the Canadian Pacific Railway Company from constructing service tracks for the benefit of the Port Hope industries, and the necessity of the commercial industries to be in a position to have traffic handled by either route, that the interchange applied for should be granted, the entire cost of construction to be borne by the Canadian Pacific Railway Company.

APPLICATION OF THE CANADIAN CAR SERVICE BUREAU FOR APPROVAL OF REVISED CODE OF CAR DEMURRAGE RULES.—FILE 1700.

Judgment, Chief Commissioner Drayton, July 28, 1917, concurred in by Assistant Chief Commissioner Scott, Commissioner McLean and Commissioner Goodeve.

This application is one of great and widespread importance, affecting vitally as it does freight transportation.

The application having been received, some eighty odd notices were sent out on the Board's direction on May 25 to different Boards of Trade and other bodies vitally interested.

The application was listed for hearing at Victoria, Vancouver, and Nelson, British Columbia; Calgary, and Edmonton, Alberta; Saskatoon and Regina, Saskatchewan; Winnipeg, Manitoba; Fort William and Toronto, Ontario; Montreal, Quebec; and Ottawa, Ontario.

These hearings commenced at the sittings of the Board held at Victoria on the 4th of June, and the last sitting was held in Ottawa on July 5, some ninety-one notices being issued by the Board to those interested for the Ottawa hearing alone.

Under the circumstances, the matter has been largely discussed and many submissions made both for and against the application.

Further opportunity was given the parties at the Ottawa hearing to submit more data, some of which has been received. It is, however, impossible to allow the matter to stand longer, having regard to the exigencies of public traffic and particularly to the movement of coal and fuel supplies.

Rule 1, as submitted for adoption, reads as follows:—

RULE 1.—CARS SUBJECT TO THESE RULES.

Cars held for, or by, consignor or consignee, for loading, unloading, forwarding directions, or for any other purpose.

Exceptions.

(*a*) Private cars (loaded or empty) on private tracks of car owner.

(*b*) Empty private cars stored on carriers' or private tracks.

(*c*) Cars containing freight for transhipment to vessel, when moving on through bill of lading and held at railway terminal awaiting boat.

There is no objection to this rule. It embodies previous practice.

At the hearing, it was contended by the railways that subsection (*c*) should be struck out. Mr. Watts, on behalf of the grain shippers, objected, and desired the retention of the clause.

The object of the railways sought to be served by dropping the subsection was to make sure that their right of charging other carriers for delays was not taken away from them.

These car demurrage rules are rules affecting entirely the situation as between the carrier and shipper or consignee. They do not attempt to deal with rights one way or the other between different carriers, whether by land or water, and the declaration contained in the subsection cannot, in my view, affect any existing right of the railways as against intermediate or other carriers, whether of land or water. On the other hand, it is manifest that the shipper or consignee ought not to be subject to demurrage arising out of the default of an intermediate or terminal water carrier; and the section should stand.

Rule 2, as submitted, reads:—

"RULE 2.—NOTIFICATION.

(*a*) The consignee shall be promptly notified in writing, or as otherwise agreed to by carrier and consignee, of the arrival of his freight, and shall be held to have been notified when notice has been sent, or given. If notice be mailed, consignee shall be held to have been notified at seven o'clock a.m. following the date of mailing.

(*b*) Delivery of all cars upon private sidings, or industrial interchange tracks, will constitute notification thereof to consignee.

(*c*) In all cases where notice is required, the removal of any part of the contents of the car by consignee shall be considered notice thereof."

Subsection (*a*) does not give sufficient particulars to enable the consignee to identify car and contents. All possible information ought to be given by the railway company in the interests not only of the consignee, but in the interests of the rapid movement of freight and clearance of terminals.

Of course, under general practice, where the consignee or his carter is not aware of the exact spotting of car, the railway companies readily give information. This, however, is not covered by the rule. The consignees ask for it. In my view they are entitled to it; and I am also of the opinion that if there is any delay in giving this information for which the carrier is responsible, the time lost should be added to the free-time allowance. I would, therefore, substitute the following for subsection (*a*):—

(*a*) Notice shall be sent or given consignee by carrier's agent in writing, or as otherwise agreed to in writing by carrier and consignee, with all dispatch after arrival of car and billing; such notice to contain point of shipment, car initials and number and the contents, also the initials and number of the original car if transhipped in transit. If notice is mailed consignee shall be held to have been notified at 7 o'clock a.m. following the date of mailing.

The carrier shall notify the consignee or his carter on application where his car has been placed for unloading. Any time within the free time allowance lost to the consignee in so doing for which the carrier is responsible shall be added to the free-time allowance.

Subsection (*b*) as drafted is not complete, but has to be read in connection with rule 7, which provides, among other things, for "constructive placement" in cases where delivery on private sidings cannot be made.

The subsection should be made complete; and I would substitute the following for it:—

(*b*) Delivery of cars upon private sidings or industrial interchange tracks shall constitute notification thereof to consignee. If such delivery cannot be made owing to such tracks being fully occupied, or from any other cause beyond the control of the carrier, written notice of readiness so to deliver shall be given and shall constitute notification to the consignee for the purposes of these rules, in which case the free time shall be computed from 7 a.m. of the first following day.

I would approve of subsection (*c*) as it is submitted.

The next rule submitted for approval is rule 3, which reads as follows:—

"RULE 3.—FREE TIME ALLOWANCE.

(*a*) Twenty-four hours (one day) after notice of arrival (exclusive of Sundays and legal holidays) will be allowed for any or all of the following purposes, if necessary:—

(1) For clearing customs.

(2) For reconsignment or reshipment in same car.

(3) When cars are held in transit for inspection or grading; stopped in transit to complete loading, to partly unload, or to partly unload or partly reload, when such privilege of stopping in transit is allowed in the tariffs of the carriers.

(*b*) Forty-eight hours (two days) free-time (exclusive of Sundays and legal holidays) will be allowed for loading or unloading all commodities.

[illegible]

(1) Twenty-four hours free-time only will be allowed for loading grain at [illegible].

(2) Five days free-time shall be allowed at Montreal, and at tide water ports, for unloading lumber and hay for export.

(3) Manufacturers, lumbermen, miners, contractors, and others, who have

> their own motive power and handle cars for themselves or others, shall be granted additional allowance of the time necessary for them to do the switching to and from the designated interchange tracks, not to exceed twenty-four hours."

The adoption of the above rule would work a very radical change in that free time allowed for all public team-track delivery would be shortened twenty-four hours.

The rule submitted is, in effect, the American rule. The old practice, in addition to allowing this initial twenty-four hours for the purposes above set out, also extended to the payment of charges and the giving of orders for special placement or delivery.

Conditions in Canada do not permit the adoption of this proposed rule. While the Canadian Pacific can place cars on team-tracks without first receiving any specific order, owing to the fact that their terminals are arranged in such a manner as to permit this, the Grand Trunk cannot.

Under the rule in the States, a car, unless placement orders have already been given, is placed at any point in the terminal where it is accessible for unloading. Under the American practice, if the consignee then desires to have the car spotted elsewhere, a replacement or reswitching charge is levied.

Take the Grand Trunk's position for example. This company's freight from the west is held at Mimico, and notification is given the consignees when it is there received. Placement in Mimico is not of the slightest use to the Toronto consignee; it cannot in fairness be looked upon as a placement in fact for unloading.

The twenty-four hours time now allowed, in my view, must be continued. It is impracticable to have one rule for the Canadian Pacific and another rule for the Grand Trunk; and the general conditions forbid the adoption of the rule as submitted in Canada in this regard.

In my view, cars would not be the more speedily released. The only effect would be to enable the railways to exact further tolls from the public. On the other hand, the adoption of the rule would be prone to add to existing congestion. The additional time is not necessary for payment of charges.

I would, therefore, adopt section (*a*) as submitted, and subsection (1), adding as a new subsection, the following:—

> (2) In the case of consignees not served by private sidings or industrial interchange tracks, to give orders for special placement.

I would also approve of subsections (2) and (3) as submitted; but they would now become subsections (3) and (4).

The railways in the past have charged demurrage when this initial twenty-four-hour period, as granted for this specific purpose, has been exceeded.

In some instances, consignees have objected, on the ground that the effect of the initial twenty-four hours really gave them seventy-two hours within which to release the car, and that it made no difference one way or the other so long as the car was in fact unloaded and released in seventy-two hours, whether customs had been cleared or placement orders given on the second instead of the first day.

The companies' contention, of course, was that there was only twenty-four hours allowed for this specific purpose.

Of course, demurrage ought to be charged in cases where consignee desires to take advantage of the privilege. Forty-eight hours was the time fixed for unloading. To this period the twenty-four hours has been added for these specific purposes, but only for these specific purposes. There is, therefore, a strong reason why the customs should be cleared and placement orders given within the first twenty-four hours. The cars have then been but recently received, and they are at the more convenient situation for placement. If placement orders are, as a matter of fact, held over until the next day, although the unloading itself may not be delayed, terminal congestion is, never-

theless, increased, as a fresh lot of cars have been brought into the terminal in the second twenty-four hours, necessitating more switching and more shunting, so that the car held during the prior period loses its position of advantage in so far as placement is concerned.

The real object to be attained is, of course, the quick release of cars, and it would be very unfortunate if in cases where cars could be the more readily released the full time which is given to cover all operations was consumed by consignees who did not require it.

So as to remove doubt in the future, I would add as a new subsection, the following:—

(5) If the twenty-four hours allowed for the above-mentioned purposes are exceeded, demurrage shall be charged.

Section (*b*) changes the former practice. The old rule allowed twenty-four hours additional free-time for unloading coal, coke, and lime in bulk, and for loading or unloading the following descriptions of lumber only, namely: boards, deals, and scantlings.

The new rule is subject to much contention. While shippers and consignees generally complain of lack of proper railway transportation, lack of cars, and terminal facilities, coal dealers and lumber dealers, generally, strongly object to their free time being cut down to the level of the ordinary trader.

As the matter stood, the coal dealer might be entitled to:—

1. 24 hours for customs.
2. 24 hours for placement.
3. 72 hours for unloading.

The Toronto coal dealers, represented by Mr. Harrington, are most insistent on retaining the time. The larger coal dealers having mechanical plants have not objected to the proposed rule. It may be observed that the bulk of Toronto's coal traffic is carried by the larger dealers, who have installed proper and modern appliances. There is no complaint made by the railways in connection with them. On the other hand, the Standard Fuel Company have stated that their practice is to unload cars between shunts. It may also be observed that these modern appliances, located as they are on private sidings, do not require the twenty-four hours for placement, which is continued in case of the smaller operator.

Toronto is dependent upon American coal, and much of that coal is carried in American cars; and the American railways have taken the position that an unnecessary length of time is allowed for unloading their cars in Canadian territory, and that it should be cut down to the same basis as that in the United States.

Since the hearing a delegation from Toronto called complaining of the bad effect of the present demurrage rules, and desired that the matter should be taken up by the Board, and such rules adopted as would ensure prompt release of cars and discourage speculation in coal car-lots in terminals. They favoured the adoption of the tariff and time placed in effect during the period of congestion last winter.

There is no doubt that a quicker movement is in the interests of the public, and particularly in the interests of the public of Ontario. This interest is none the less existent in the more isolated cases of dealers who have not proper plants, and the charge will bear heavily upon them.

The railway records undoubtedly in themselves show many terminal delays owing to congestion and lack of facilities; but the suggestion that because of this fact the railways ought not to get demurrage, and that the movement ought not to be speeded up at the expense of delinquent dealers, owing to the delinquencies of the railways themselves, loses sight entirely of the one predominating consideration, and that is the interests of the public and the securing of a maximum efficiency from transportation facilities.

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To illustrate the necessity of a more effective demurrage charge the railway records show a car of coal arriving in Toronto on May 14. The consignees released the car from bond on May 16, and sold it. On May 18 the car was switched to the private siding of the purchaser. It there remainded under load until July 7, when it was again sold and $40 demurrage for delay on the siding paid. On July 22 the car was still loaded, the second purchaser claiming that he was unable to unload owing to inability to get labour.

The same firm of consignees had another car which arrived in Toronto, May 12. They released the car from bond on May 18, when they sold it. On the same day it was placed upon the purchaser's siding. In like manner, it remained under load until July 7, when it was sold and then again re-sold. Forty dollars was again paid for holding the car on the siding of the first purchaser; and then the car, owing to the fact that the last purchaser had a siding at West Toronto, was switched out by the Grand Trunk to the C. P. R. for West Toronto placement on July 9.

It should not be understood for a minute that these cases show the general practice. The very large majority of Toronto coal dealers have done their best to facilitate the movement of coal; but at a time like the present no system can be tolerated which permits occurrences such as those above set out to continue.

I would adopt the new subsection (*b*) as submitted.

Subsection (1) of the "Exceptions" is not a matter which this Board deals with at all—it is covered by the Grain Act. I would, however, substitute the following for the subsection submitted:—

> (1) In the portion of Canada, Port Arthur and west in which the "Canada Grain Act" applies, twenty-four hours free time only will be allowed for loading grain.

Exceptions number (2) and (3) carry out past practice. I would adopt them. Rule 4 as submitted for approval is as follows:—

"RULE 4.—COMPUTING TIME.

(*a*) On cars held for loading, time will be computed from the first 7 a.m. after placement, until loading is completed, and proper billing instructions furnished except that on cars placed for loading grain at stations Port Arthur and west thereof, free-time will be computed from the hour cars are placed at shipper's disposal on siding.

(*b*) On cars held for disposal (see rule 3-A) time will be computed from the first 7 a.m. after the day on which notice of arrival is sent, or given to the consignee.

(*c*) On cars held for unloading, time will be computed from the first 7 a.m. following placement on public delivery tracks, provided notice of arrival has been sent, or given to the consignee.

(*d*) On cars to be unloaded on private delivery tracks, time will be computed from the first 7 a.m. after actual or constructive placement on such tracks.

(*e*) On cars to be loaded or unloaded on tracks of manufacturers, lumbermen, miners, contractors, or others, who have their own motive power and handle cars for themselves or others, time will be computed from the first 7 a.m. following actual or constructive placement on the interchange tracks until returned thereto. Cars returned loaded will not be recorded released until billing instructions and other necessary data furnished.

(*f*) When empty cars are placed for loading on orders, and are not used, demurrage will be charged from the first 7 a.m. after placement until released without any free-time allowance.

(*g*) When an empty foreign car is placed for loading via a specific route so as to protect ownership of car, according to Car Service Rules, and same is not so loaded, demurrage will be charged until car is unloaded without any free-time allowance.

(*h*) Time lost to the shipper or consignee through switching of cars, or any other cause for which the railway company is responsible, shall be added to the free-time allowance.

(*i*) In computing free-time, Sundays and legal holidays will be excluded. After expiration of the free-time demurrage shall be charged for Sundays and legal holidays. The exemption for holidays does not include half holidays."

Subsection (*a*) should be changed by striking out the words "from the hour cars are placed at shipper's disposal on sidings"; and substituting therefor the words "under the provisions of the Canada Grain Act.'

With this change, I would adopt the whole of this rule, with the exception of subsection (*i*). Subsection (*i*) changes the practice entirely. Under the old practice, in computing free-time Sundays and legal holidays were, of course, excluded. Under the new proposal they are also excluded; but, under past practice, Sundays and legal holidays were also excluded from the time for which demurrage was charged.

Cars cannot be unloaded either on Sundays or on legal holidays. To include them in demurrage time is merely adding an extra penalty for an ordinary default. There can be no justification for it. Ordinary defaults will be fully covered by the scale of demurrage which I think ought to be adopted. Under these circumstances, I would change subsection (*i*) to read as follows:—

(*i*) In computing free-time or demurrage time, Sundays and legal holidays will be excluded. The exemption for holidays does not include half holidays.

Rule 5, as submitted for approval, reads as follows:—

"RULE 5.—WEATHER INTERFERENCE.

"If wet or inclement weather, according to local conditions, renders loading or unloading impracticable during business hours, or exposes the goods to damage, the free-time allowance shall be extended so as to give the full free-time of suitable weather. But if the cars are not loaded or unloaded within the first forty-eight hours of suitable weather no additional free-time shall be allowed.

"This rule shall not absolve shipper or consignee from liability for demurrage, if others similarly situated and under same conditions, load or unload cars."

The first paragraph of this rule covers existing practice. I would allow it.

The second paragraph, which prevents shippers or consignees taking advantage of bad weather conditions if other consignees do not want to, is new.

I do not think the new paragraph should be allowed. I see no reason why, because one shipper chooses to take chances and possibly injure his goods, that all other shippers have to do the same. The question in each case ought to be the question of fact as to whether or not weather conditions were such as to render loading or unloading impracticable, or as to expose the goods in question to damage.

The rule as drafted does not cover bulk commodities frozen in transit. It is but fair to say that the old rule also did not. There, is however, some times very real difficulty in connection with bulk freight so frozen. It is extremely difficult to remove

crushed stone, coal, or ore from hopper cars if the contents become solidly frozen. In my view, a further section should be added to cover this difficulty, as follows:—

(*b*) Should bulk freight be so frozen in transit or before placement as to render unloading impossible within the prescribed free time, such additional time shall be granted as may be necessary.

Rule 6, submitted for approval reads:—

"RULE 6.—BUNCHING.

"When, as the result of the act or neglect of any carrier, cars originating at the same point destined for one consignee at one point and moving via the same route are delivered or tendered at destination in accumulated numbers, the consignee shall be allowed such free time as he would have been entitled to had the cars been delivered or tendered in same number per day as were shipped per day. Claim must be presented in writing to carrier's agent within fifteen days, accompanied by written statement of all cars involved in alleged bunching, with date and point of shipment of each, as evidenced by bills of lading."

More or less discussion has taken place in connection with this rule. The National rule seems to have worked out well—perhaps it is a little clearer. Shippers and consignees have asked the adoption of the National Demurrage Rule in force in the United States. The National rule dealing with the subject reads as follows:—

"1. *Cars for loading.*—When, by reason of delay or irregularity of the carrier in filling orders, cars are bunched and placed for loading in accumulated numbers in excess of daily orders, the shipper shall be allowed such free time for loading as he would have been entitled to had the cars been placed for loading as ordered."

"2. *Cars for unloading or reconsigning.*—When as the result of the act or neglect of any carrier, cars destined for one consignee at one point, are bunched at originating point, in transit, or at destination, and delivered by the carrier line in accumulated numbers in excess of daily shipments, the consignee shall be allowed such free time as he would have been entitled to had the cars been delivered in accordance with the daily rate of shipment. Claim to be presented to carrier's agent within fifteen (15) days."

I would adopt the National Demurrage Rule.
Rule 7 submitted for approval is as follows: —

"RULE 7.—PLACEMENT.

(*a*) "Actual Placement" is made when a car is placed in an accessible position for loading or unloading.

(*b*) (1) Delivery of cars to private sidings or industrial interchange tracks shall be considered to have been made when such cars have been placed thereon, or would have been placed but for some condition for which the consignee is responsible. When cars cannot be so placed, the carrier's agent shall notify the consignee that he has been unable to deliver cars because of the condition of the private siding, or interchange tracks, or because of other conditions attributable to the consignee. This will be considered "Constructive Placement."

(2) If an authorized employee upon a railway which performs switching services gives notice that such railway is unable to receive cars for private

sidings, owing to conditions for which shippers or consignees are responsible, then any other railway company having cars for such consignee shal so advise them, and the car service toll shall be charged until the cars on such private sidings have been unloaded or loaded, as the case may be, or until such sidings have been otherwise cleared.

(*c*) When delivery cannot be made on specially designated public delivery tracks on account of such tracks being fully occupied, or from any other cause beyond the control of the carrier, the carrier shall send or give the consignee notice in writing, or as otherwise agreed to by carrier and consignee, of its intention to make delivery at the nearest point available, to the consignee naming the point. Such delivery shall be made, unless the consignee shall before delivery indicate a preferred available point, in which case the preferred delivery shall be made.

I would adopt section (*a*) as it stands, and section (*b*) as it stands, with the addition of the words "in writing" after the word "consignee" in the fourth line.

Mr. Walsh, of the Canadian Manufacturers' Association, objects strongly to subsection (2) of (*b*) as not being sufficiently explicit, and not making clear that the switching company is the company to look after the matter of demurrage thus arising. He asks that the paragraph should be struck out entirely and that the following paragraph be added to section (*b*):—

> This will apply to such cars which consignees located on switching line are unable to receive and which, for that reason, the switching line is unable to receive from the carrier line. The carrier line will advise the switching line of point of shipment, car initials and number, contents and consignee, and if transferred in transit the initials and number of the original car. The switching line will notify consignee and put such cars under constructive placement.

I would give effect to Mr. Walsh's submissions; and, as a result, would strike out subsection (2) of (*b*) entirely, leaving (*b*) with but one section.

Section (*c*) carries on existing practice, and there is no objection to it.

Rule 8 as drafted is as follows:—

RULE 8.—CUSTOMS RESPONSIBILITY.

> Demurrage charges shall not be collected from the consignee for any delays for which the customs officials may be responsible.

Consignees object to this rule as drafted. They point out that delays have occurred owing to the acts or omissions of government inspectors other than customs officials, and that they also might occur from mistakes made in the manifest issued by the railway companies themselves.

The last case would appear to me to be a railway error; so in that event demurrage would not be collected. There is no reason, however, why the matter cannot be made clear. I would change the rule, striking it out, and making it read as follows:—

RULE 8.—CUSTOMS OR INSPECTION DELAYS.

> Demurrage charges shall not be collected from the consignee for any delays for which Government or railway officials may be responsible.

Rule 9 as submitted reads:—

RULE 9.—CHARGE.

After the expiration of the free time allowed, a demurrage charge of three dollars ($3) per car per day, or fraction of a day, will be made until car is released.

I am not at all in favour of the railway proposal of $3 a day. There are cases, and always will be cases, where the greatest diligence is sometimes attended with delay. The man who is trying to do his best ought not to be unduly penalized. I agree that the greatest number of delays to cars of necessity occur on the day first after the free time; but I am firmly convinced that the delays which are really unnecessary, many instances of which have been brought before the Board, are delays which extend until well beyond this first day and for a week and more afterwards.

The general American rule now in force is that the first and second days are allowed for unloading free; for the third, fourth, fifth, sixth, and seventh days that the car is held in the consignee's possession a charge of $2 a day is made; and for each day thereafter a charge of $5 a day is made.

The result is that for the first week, under this rule, that the car is held for unloading a charge of $10 in all is made. The rule proposed by the Canadian carriers would result in a charge of $15.

With much deference, I think the holding of a car on the third day ought not to be considered in the light of a penalty. Some charge, of course, has to be made; but to my mind there is no doubt that a heavier charge ought to be made for a delay on the sixth day than for a delay on the third. The object, as I see it, is not to penalize the man who is desiring to do business as quickly as he can, but to penalize the man who is persistently holding cars over the prescribed free period or turning them into temporary warehouses.

I would, during the war, adopt the following scale:—

1st and 2nd days to be free.
For the 3rd day a charge of $1 to be made.
For the 4th day a charge of $2 to be made.
For the 5th day a charge of $3 to be made.
For the 6th day a charge of $4 to be made.
For the 7th day, and all days thereafter, a charge of $5 per day to be made.

This tariff ought to release cars quickly. Under it, the car held for seven days would be subject to a charge of $15, as against $10 under the American tariff, although for three days, which is the period covering most cars, the charge would be but $1 as against $2 in the States; and for four days, $3 as against $4.

It may be thought that the tariff is specially severe. It ought never to be applied. I am confident that with diligence all cars can be unloaded, if not within three, certainly within four days; and if by reason of some special circumstances the consignees may find themselves in an unfortunate position, it is infinitely better that the individual should suffer rather than the whole. Traffic must be speeded up, and coal must be got into the country.

Rule 10, as submitted for approval, is as follows:—

RULE 10.—NON-PAYMENT.

If payment of demurrage charges properly due on cars held on public delivery tracks be refused, delivery of only the car or cars on which such charges are due shall be withheld, by means of sealing or locking, or by placing where such cars shall not be accessible.

If the owners or users of private tracks, or the owners of industrial tracks referred to in rule 4, refuse to pay any charges which may already be due, delivery of cars to such sidings or tracks shall be suspended, and delivery shall be made on any available public team track until such charges have been paid.

This rule embodies past practice. I would approve it.

The matters of reciprocal and average demurrage have again been proposed.

There is, of course, no room for doubt that the public could not get a proper railway freight service last winter. Many shippers were unable to get cars, and when they got cars were unable to get a movement except after very great and vexatious delays; and many consignees were unable to get their freight, although shipped and in the hands of the railways. Not only did great inconvenience result, but unquestionably in many instances great loss. Anything which can be done to hasten the movement of freight ought to be undertaken, and if either reciprocal or average demurrage, or both would hasten the movement, they ought to be adopted. If it is not clear that the adoption of this arrangement would produce this result; and if, on the other hand, their adoption, particularly at a time of congestion and stress, would merely add to an already highly complicated situation, it is equally obvious that they should not be now adopted.

While it is true that the public have suffered as indicated owing to railway congestion, it is also true that the railways themselves have suffered similarly.

The greatest delays and the greatest number of complaints made by shippers and consignees occurred during last winter.

As a general thing, it is certainly admitted that railway managements are anxious to make just as much money from their undertakings as they can. Complaints against railways as a rule are based upon the proposition that the companies are unduly anxious to make money, rather than unduly anxious to lose it; and the congestion worked in turn similar and perhaps greater loss to the companies.

In Ontario, as a result of the congestion in February last, the freight business of the Canadian Pacific was actually 15·58 per cent less than the business of February, 1916, while the Grand Trunk's decrease amounted to no less than 39·37 per cent. The decreases in the Quebec district were greater, the Canadian Pacific's being 25·82 per cent and the Grand Trunk's 48·5 per cent.

It must be borne in mind that these decreases occurred at a time when a tremendous amount of freight was offered both systems. Neither company certainly had to solicit it; but, on the other hand, both companies were refusing it. The money was there for them to earn if they could possibly earn it. The actual performances resulted in loss of freight earnings amounting in the aggregate to great sums of money to both systems.

The reciprocal demurrage asked would call for a penalty of $1 a day for delays in placing cars in terminals, the companies being allowed forty-eight hours within which to place cars after notification without penalty. At the expiration of this time, the companies would be subject to $1 a day fine, or whatever fine the Board might raise the request to, for each day the movement was in default.

The possible losses to the companies under such a plan would be entirely infinitesimal as compared to the actual losses incurred. The incentive to service which a demurrage penalty would afford would be indeed small as compared to the incentive the companies would already be under.

There is a grave possibility that cars, instead of being promptly reported, would be held up by the yardmaster until he was ready to spot his cars. After all, we are all human; and the railway official, having it in his own hands to show a good performance in his terminal, would certainly be much tempted to hold cars and car notifications until [illegible] This

would not increase the general movement, but greatly delay it. In my view, the railways should send their notices with all possible despatch after the receipt of cars, and cars should be placed just as soon as possible, without waiting for the expiration of 24-hours, 48-hours, or any other period.

Toronto was probably the worst point in the country last winter in so far as spotting cars was concerned. The Board made arrangements under which a special official was appointed to keep track of all orders, and see that placement of all cars was promptly made.

At the hearing, I pointed this out to Mr. Harrington, and said:—

> "In that way the car detentions in Toronto have been cut down tremendously—you know about that—I think very much more than any one dollar a day would have done."

Mr. Harrington's reply was:—

> "Undoubtedly and unquestionably."

The smaller dealers are those who desire reciprocal demurrage.

The larger shippers, speaking generally, are against reciprocal demurrage, but demand with equal insistance average demurrage. In their behalf it is suggested that reciprocal demurrage would open the door to abuses—that it would give an opportunity for preference; and that with reciprocal demurrage which had been adopted in some States the machinery was found to be so complicated that it did not work out successfully and no one had ever tried to collect the reciprocal demurrage penalty.

Mr. Mann, who also appeared for the Retail Coal Dealers, was of the view that reciprocal demurrage would not give a remedy.

Mr. Watts, who appeared for the grain trade, strongly supported reciprocal demurrage, but was of the view that to-day was not the proper time to deal with the question. His view was that it ought to be left open for consideration by the Board with open mind after the war and when conditions were more normal.

I think Mr. Watt's position is correct, and the matter should be so left.

Average demurrage does not help the smaller dealer, and, he, in turn, objects to average demurrage, being of the view that reciprocal demurrage is the only proper remedy.

Mr. Watts' position was that average demurrage, while benefiting the larger dealers, would be of little use to his clients. His position may be taken as typical of those representing the consignees handling small quantities.

Those asking for average demurrage recognized the difficulties of the present situation, and thought that these abnormal times are perhaps not the best for the introduction of the scheme.

In my view, the average demurrage question might well stand on the same basis as the question of reciprocal demurrage—to be taken up after the war is over.

In the meantime, the Board will endeavour to ascertain whether the adoption of these plans have worked real benefit in places where they have been tried. From the best information that the Board had at previous hearings, the contrary was the case. It may be that they are now working out well; and if so, and they can be made to work out in the interests of quicker movement under normal conditions, they, of course, ought to be adopted. *24 Can. Ry. Cas.*

APPLICATION OF THE BOARDS OF TRADE OF MOOSEJAW AND ROSETOWN, SASK., FOR AN ORDER DIRECTING THE CANADIAN NORTHERN AND CANADIAN PACIFIC RAILWAY COMPANIES TO ESTABLISH A TRANSFER TRACK AT ROSETOWN, SASK.

This application had been before the Board a number of times and the last judgment dealing with it was dated July 6, 1915, when the application was dimissed. It

further appeared that at that time there was not sufficient business to warrant the Board, under any head, giving effect to the application. A new application was made the following year on the grounds that business had so much increased that a transfer was necessary. It appeared that at the same time transfer tracks were applied for at Moosejaw and Forward, Sask.

Held, Chief Commissioner Drayton in his judgment, July 30, 1917, concurred in by Commissioner McLean, that the information which the Board had before it, and the information obtained at the demurrage hearings required the issuance of an Order for a transfer track as asked for by the applicants, and that such transfer track should be installed at the joint expense of the railway companies.

PETITION OF THE ALBERTA PACIFIC GRAIN COMPANY, LTD., AND OTHERS, "RE" STENCILLING OF INCHES IN BOX CARS SUITABLE FOR SHIPMENTS OF BULK GRAIN.

This matter was heard at a sittings of the Board in Calgary. In the application presented it was asked that a ruling should be given providing for the stencilling of the inside of box cars used in carrying bulk grain, said stencilling being applied in inches in four different places of the car. It was represented that at present the Alberta Pacific Grain Company was using a temporary substitute for stencilling. Paper strips with inches marked thereon are made use of and are attached in the inside of the cars used by the company applicant. It was stated that they worked fairly satisfactorily. Objections were that they were not always put on perpendicularly, that they were apt to get torn, and that they were not so efficient as permanent stencilling would be. The system of paper strips has been found of use in the business of the applicant, and in evidence submitted in other connections the Board has been informed that similar paper strips are also used by others.

Held, Commissioner McLean in his judgment, July 31, 1917, concurred in by Chief Commissioner Drayton, that the Board has had occasion to recognize in other connections the settlement which takes place in transit, alteration of level from transit movements, etc. Held further that the method suggested by Mr. Frem, supporting the application, was one that should be given a reasonable trial. Held further that an Order should go for the equipment with stencils of box cars used in the grain traffic in Alberta, Sask., and Manitoba, but that with existing conditions of traffic and the demands on equipment, it was impossible to fix a time limit; that the cars were to be so equipped from time to time as they were shopped for repairs, and any new cars which were being put into such traffic were to be so equipped when constructed. *24 Can. Ry. Cas.*

JURISDICTION—BRIDGE—INTERNATIONAL BRIDGE & TERMINAL COMPANY V. CANADIAN NORTHERN RAILWAY COMPANY & RUSSELL BROS.

Where a company is authorized by its charter to build a bridge and lay railway tracks upon it, but has no power to build a railway the Board has no jurisdiction to authorize it to build a branch line of railway under section 175, 3 Edward VII, Chapter 58 (Railway Act, 1903).

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated August 1, 1917. *21 Can. Ry. Cas. 218.*

Re PROTECTION AT BURWELL STREET, ADELAIDE STREET AND RECTORY STREET, LONDON, ONT., GRAND TRUNK RAILWAY.

Order No. 25012 of May 27, 1916, provided for the installation by the Grand Trunk of gates at the crossings of Waterloo and Colborne streets, in the city of London, Ont. The street crossings now before the Board were protected at the time this

Order issued by day and night watchmen appointed and paid by the Grand Trunk; and these crossings, in common with certain others, were reserved for further consideration.

Further investigations have been made as to Adelaide, Rectory and Burwell streets. The Board's officers advise that because of traffic conditions and obstructions to the view further protection is necessary. Burwell, Adelaide and Rectory streets are paved up to the tracks.

Held, Commissioner McLean in his judgment, September 1, 1917, concurred in by Chief Commissioner Drayton and Commissioner Goodeve, that gates should be installed at the crossings, to be operated day and night; detail plans of said gates to be filed for the approval of an engineer of the Board; such gates to be installed by the Grand Trunk Railway Company. Held further that the city of London and the railway company should have an opportunity of speaking to the division of cost in respect of the particular crossings involved, and that upon their submissions being received the question of distribution of cost would then be dealt with.

The question of the distribution of cost reserved above, was dealt with at a subsequent hearing of the Board as follows:—

No exception was taken to the method of distribution as regarded Adelaide street and Burwell street, and the distribution of cost of these streets was accordingly fixed. It further appeared that Rectory street was junior to the railway and the London Street Railway also operated over this crossing. The Grand Trunk Railway Company submitted that 60 per cent of the cost should be imposed upon the city, in view of the said street being junior, the city contending that the London Street Railway ought to pay at least 30 per cent of the cost of protection at Rectory street.

The London Street Railway stated that when they obtained the crossing over the Grand Trunk this was under an Order of the Railway Committee of the Privy Council, dated November 15, 1898, which order was subject to the provisions of an agreement entered into between the parties on October 1, 1898. Under this agreement the street railway company undertook to pay the expense of the wages of the watchmen at the Rectory street crossing, it being provided that these watchmen were to operate the signals at the crossing. Under this arrangement the watchmen were appointed by the Grand Trunk and paid by the London Street Railway Company, and provision was made for day and night watchmen.

Held, Commissioner McLean in his judgment, December 10, 1917, concurred in by Chief Commissioner Drayton, Assistant Chief Commissioner Scott and Commissioner Goodeve, that the interlocking device should be connected up with the tower and the necessary additional levers, if any, installed so that the half interlocker might be operated from the tower as well as the gates; that this should form part of the cost of installation, but that in view of there being no objection to the existing half interlocker, the street railway company should not be asked to participate in this additional cost; that the cost of installation should be divided; 20 per cent from the Grade Crossing Fund, 20 per cent on the Grand Trunk Railway Company, and 60 per cent on the city. Held, further, that the street railway should continue to pay the cost of the day and night watchmen who are to be appointed as at present, the balance of the cost of maintenance to be borne by the Grand Trunk Railway Company. Held, further, that the street railway company was to continue to look after the same maintenance charges as are provided for in the Order of the Railway Committee of the Privy Council, dated November 15, 1898.

CANADA CHEESE BOX COMPANY *v.* CANADIAN FREIGHT ASSOCIATION.

Fibre-board cheese boxes, rated in the classification as fifth-class with a minimum weight in C.L. lots of 20,000 pounds, are entitled to the same rating as wooden cheese boxes with the same minimum weight, either by a change in the classification or by a commodity toll of general application.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by Assistant Chief Commissioner Scott and Mr. Commissioner Goodeve, September 1, 1917. *22 Can. Ry. Cas., 347.*

Re STATION LAYOUT AT FALLOWFIELD, ONT., CANADIAN NORTHERN RAILWAY.

The present location of the station at Fallowfield was approved by an Order of the Board, dated March 14, 1912, and the present application was made to move the station one mile east.

It appeared from the evidence that the proposed location has a 1·4 per cent grade against eastbound traffic; that it would also be in a cut, with a blind curve a short distance west. It also appeared from the evidence that in the district in question the stations are very close together as compared with the usual standard distances.

Held, Commissioner A. S. Goodeve in his judgment, September 7, 1917, concurred in by Assistant Chief Commissioner Scott and Commissioner McLean that under the circumstances the Board would not be justified in making the Order asked for.

COMPLAINT OF H. E. DUNPHY, EXCEL, ALTA., "RE" DEMURRAGE CHARGE ON BARLEY SHIPPED FROM LANFINE, ALTA., TO WINNIPEG, MAN., CANADIAN NORTHERN RAILWAY.

Complaint was made to the Board regarding the demurrage charge imposed on a car of barley which moved from Lanfine, Alta., to Winnipeg, Man., the applicant stating that a number of cars were dropped off at Lanfine in January, 1916; that they stood there for some time; and that he took no steps towards securing one up to the morning of January 25, when he loaded some barley into one of the cars, and had teams loading all that day and the next day, and that by the afternoon of the 26th January the car was loaded.

In view of the contradictory statements, one of the Board's Inspectors was directed to make an investigation, which was done and a report filed.

Held, Commissioner McLean in his judgment, September 11, 1917, concurred in by Chief Commissioner Drayton, that in the absence of definite information to controvert the record as to the handling of the car in question, there is no evidence to justify a ruling that the charges were improperly assessed.

Re APPLICATION OF TORONTO, HAMILTON AND BUFFALO RAILWAY COMPANY UNDER SECTION 175 OF THE RAILWAY ACT.

This was an application of the Toronto, Hamilton & Buffalo Railway Company under the provisions of section 175 of the Railway Act to take certain lands belonging to the estate of the late Senator McCallum and to the estate of the late Thomas C. Street, in the township of Sherbrooke, county of Haldimand, and province of Ontario.

It appeared from the evidence that the railway company was already the owner of a large area of property lying between its railway and the Grnd river to the south of the property in question, and it was contended by the landowners that that property should be used for the purpose of establishing the facilities desired instead of the property which the railway now applies for permission to acquire.

Held, Assistant Chief Commissioner Scott in his judgment, September 14, 1917, concurred in by Commissioner Goodeve, that the land applied for was the most suitable available location for the purposes for which the railway desired to use it, and that it was in the public interest that the company should be permitted to acquire the land for such purposes.

SESSIONAL PAPER No. 20c

COMPLAINT OF DOMINION CANNERS, LIMITED, *re* GRAND TRUNK AND CANADIAN PACIFIC TARIFFS CONTAINING COMMODITY RATES ON CANNED GOODS.

Complaint was filed by the Dominion Canners, Limited, against tariffs filed by the Grand Trunk and Canadian Pacific Companies eliminating the item formerly effective, whereby the fifth class Trenton rates were granted to canned goods from points on the Central Ontario Railway to points in Ontario west of Whitby, Peterboro and Ottawa. The effect of the cancellation of the item in question was that instead of the Trenton basis applying, fifth class rates applied from points on the Central Ontario Railway division to points in the above mentioned territory.

It developed at the hearing before the Board that a large amount of correspondence had taken place between the parties, and the extensive correspondence between the railways had been filed and duly considered. The position of the Grand Trunk, as therein developed, was, in general, that the matter should be dealt with only in connection with the general issue of joint-class rates. The Canadian Northern had endeavored to obtain an agreement as to the particular rates involved in the present application. The Canadian Northern had notified the Grand Trunk that it was prepared to establish new rates on canned goods west of Toronto on the proposed thorough fifth-class basis as submitted, delivering the freight to the Grand Trunk at Toronto. In reply, the Grand Trunk objected, both to the particular rates involved being dealt with separately, and also to the routing of traffic *via* Toronto until definite general arrangement was made.

Held, Commissioner McLean in his judgment, September 17, 1917, concurred in by Chief Commissioner Drayton, Assistant Chief Commissioner Scott and Commissioner Goodeve, that, all things considered, it was proper to deal with the present application and to give a decision at present on the present facts as developed. Held that without establishing any precedent with respect to the general tariffs which have yet to be worked out, that the rates submitted by the Canadian Northern Railway were reasonable. Held further that the percentage divisions were also reasonable, but that that could be spoken to if either of the railway companies desired any alterations in them, but that if they intended to avail themselves of that right, they should do so within three weeks from the date of the judgment, and that in the meantime a tariff in compliance with what had been submitted should be filed to be effective within thirty days. Held further that the action directed should be without prejudice to the rights of the railway companies to make application to have the rates therein directed placed on the joint-class basis as finally determined, and also without prejudice to any contention which might be advanced in such connection that the volume concerned, or any other material factors, justify special treatment on a commodity basis.

PREMIER COAL COMPANY *vs.* CANADIAN FREIGHT ASSOCIATION.

The Board disallowed a toll of $2 for switching and spotting movements, on spurs more than 1,000 feet in length, of cars loaded with coal, without expressing any opinion on the general question of fixing a limit for free switching service.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, concurred in by the Chief Commissioner, September 26, 1917. *22 Can. Ry. Cas., 123.*

Re LOCATION OF STATION ON CANADIAN PACIFIC RAILWAY AT MUD LAKE OR BOLINGBROKE, ONTARIO.

It appeared from the evidence that the residents of the township of South Sherbrook had been agitating for a station somewhere between Christie Lake and Crow Lake on the line of the Canadian Pacific Railway Company, and that two

locations had been suggested, one at Mud Lake and the other at Bolingbroke. The Canadian Pacific Railway Company contended that there was no necessity for any station between Christie Lake and Crow Lake, but that if a station must be established somewhere between these points that Bolingbroke was the best place for it.

Held, Assistant Chief Commissioner Scott in his judgment, September 29, 1917, concurred in by Commissioner Goodeve, that there should be a flag stop somewhere between Christie Lake and Crow Lake, and that Mud Lake was the best place for it. Held further that the Board's Order of May 5, 1917, should remain effective and should be complied with without further delay by the railway company and that stops on flag should be made by suitable trains of the company.

O'BRIEN BROTHERS *v.* CANADIAN PACIFIC RAILWAY COMPANY.

The mere acquisition of lands on both sides of a railway right of way does not *per se* give a right to a farm crossing. The original owner having lost his right to a crossing by conveying the lands on one side to another person, a subsequent owner purchasing the lands on both sides from different vendors does not thereby acquire a right to a farm crossing to connect them. The Board, however, has jurisdiction, under section 253, to order a crossing, which it will exercise in a proper case and on proper terms.

See Grand Trunk Ry. Co. v. Therien, 50 S.C.R. 485; Midland Ry. Co. v. Gridale (1895), 2 ch. 129, 827.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated September 29, 1917. *21 Can. Ry. Cas. 197.*

DOMINION MILLERS' ASSOCIATION *v.* CANADIAN FREIGHT ASSOCIATION.

It is unjust discrimination to charge a higher milling-in-transit toll on the same commodity moving from different localities by different routes under similar circumstances and conditions to a common competing market.

Ontario and Manitoba Flour Mills v. Canadian Pacific Ry. Co., 16 Can. Ry. Cas. 430, at p. 431, referred to.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by the Assistant Chief Commissioner and Mr. Commissioner Goodeve, October 3, 1917. *22 Can. Ry. Cas., 125.*

JURISDICTION—TOLLS—SOUTHERN ALBERTA HAY GROWERS *v.* CANADIAN PACIFIC RAILWAY COMPANY.

(Timothy Seed Case.)

The jurisdiction of the Board is confined to dealing with the reasonableness of tolls, and it is not its function to put in experimental tolls with a view to developing industry.

British Columbia News Co. v. Express Freight Traffic Association, 13 Can. Ry. Cas. 176, at p. 178, followed.

The facts are fully set out in the judgment of Mr. Commissioner McLean, dated October 5, 1917. *21 Can. Ry. Cas. 226.*

CITY OF HAMILTON *v.* GRAND TRUNK RAILWAY COMPANY.

(Burlington Beach Case.)

When respondent steam lines have been paralleled by electric lines, which have taken practically all the business and ordering the respondent to give an increased service, might secure a better service from the electric line, such an order would not

be justified in the public interest, where this could only be done at an unjustifiable cost and entail a continuing loss to the respondent.

A specific breach of an agreement must be shown to give the Board jurisdiction under 8 and 9 Edward VII, chapter 32, section 1.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, dated October 13, 1917. *21 Can. Ry. Cas. 211.*

Re APPLICATION TO CONSTRUCT SPUR IN THE TOWN OF COBOURG TO THE PREMISES OF THOMPSON-MACDONALD COMPANY CONNECTING WITH GRAND TRUNK RAILWAY COMPANY.

This was an application made for the construction of an industrial spur into the premises of the Thompson-Macdonald Company, of the town of Cobourg, Ont., and to cross, in connection with such construction, Division street in the said town.

It appeared that the Board's Assistant Chief Engineer had approved of the plan and that a consent Order had issued on June 20, 1917; that later an objection was taken by the town of Cobourg to the Order. It further appeared that a private agreement had been entered into between the Thompson-Macdonald Company and the municipality and that the Board was now asked to incorporate this agreement in its Order.

Held, Commissioner A. S. Goodeve in his judgment, October 17, 1917, concurred in by the Chief Commissioner, that the terms as set out in the judgment delivered by the Chief Commissioner of the Board in the application of B. Shragge, of Winnipeg, Man., for an Order directing the C.P.R. Company to construct a spur across Sutherland avenue, to serve the applicant's warehouse in the city of Winnipeg, and which terms were afterwards adopted by the Board as a standard in connection with industrial tracks, would meet all the requirements of the present case, and that the Board's Order of June 20, 1917, be amended accordingly. *24 Can. Ry. Cas. 61.*

NEW WESTMINSTER BOARD OF TRADE *v.* GREAT NORTHERN RAILWAY COMPANY.

Where the costs of operation between two points are much higher than the earnings the Board will limit the train service to a movement of traffic not more than once a week.

The facts are fully set out in the judgment of Mr. Commissioner McLean, October 30, 1917, concurred in by the Chief Commissioner. *23 Can. Ry. Cas. 58.*

JURISDICTION—TELEPHONES—NORTH LANCASTER EXCHANGE *v.* BELL TELEPHONE COMPANY.

2 and 3 Edward VII, chapter 41, section 2, limits the Board's jurisdiction to direct the installation of a telephone service but gives the Board no power in regard to facilities such as it has in the case of railway companies.

Tinkess v. *Bell Telephone Co., 20 Can. Ry. Cas. 249,* at p. 253 followed.

The facts are fully set out in the judgment of Mr. Commissioner McLean, dated November 2, 1917. *21 Can. Ry. Cas. 220.*

TOWN OF OAKVILLE *v.* GRAND TRUNK AND CANADIAN PACIFIC RAILWAY COMPANIES.

By agreement between the Grand Trunk and Canadian Pacific Railway Companies, dated May 13, 1896, confirmed by statute, 59 Victoria, chaper 6 (D), the Canadian Pacific were given a lease for a period of 50 years of the joint use of the Grand Trunk line between Hamilton Junction and the city of Toronto, known as the "Joint Section." By the 16th clause of the agreement, the Canadian Pacific agreed to do through passenger and freight business over the joint section, but not local business between either Hamilton or Toronto and an intermediate station on the joint section.

Oakville is a town on the joint section, with a population of over 3,000 inhabitants, about 21 miles west of Toronto. Many of its residents have their offices or places of business in Toronto.

For many years the Grand Trunk Railway Company gave a fairly satisfactory suburban service between Oakville and Toronto, until in January, 1917, the 11.45 p.m. train out of Toronto was discontinued to economize fuel, and the Canadian Pacific voluntarily agreed to stop its 7.15 p.m. train out of Toronto for Buffalo. In June, 1917, the Grand Trunk re-established its 11.45 p.m. train and discontinued it again in September, 1917. The Canadian Pacific being unwilling, the Board ordered its 7.15 p.m. train out of Toronto to stop at Oakville.

The ASSISTANT CHIEF COMMISSIONER: The confirmatory Act is not a special Act within the meaning of section 3 of the Railway Act, but merely validated a private arrangement between two railway companies and does not make any enactment affecting the general public.

Mr. COMMISSIONER MCLEAN: The confirmatory Act is a special Act within the meaning of section 3 of the Railway Act, but there is no such repugnancy between the provisions of the special Act and the Railway Act as to oust the jurisdiction of the Board in matters of train service.

Grand Trunk and Canadian Pacific Ry. Cos. v. City of Toronto (Viaduct Case), 11 Can. Ry. Cas. 38, at p. 39; Municipality of La Salle v. Canadian Pacific and New York Central Ry. Cos., 20 Can. Ry. Cas. 190, at pp. 192, 193, followed.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, November 6, 1917. *22 Can. Ry. Cas., 433.*

APPLICATION UNDER SECTION 284 OF THE RAILWAY ACT FOR AN ORDER REQUIRING THE CANADIAN PACIFIC RAILWAY COMPANY TO FURNISH SUITABLE CARS FOR CARRYING POTATOES.

Complaint was made to the Board regarding the alleged defects in the type of heated car used in the movement of potatoes from New Brunswick to Ontario and Quebec points. While it was set out in the application that the only suitable car for the shipment of potatoes during the winter season would be a heater car similar to the Eastman heater car, the matter, as it developed at the hearing, turned upon the question of improvements which it was considered should be made in the cars of the 79,000 series, used in this traffic. The Eastman car is used in shipments between United States points and also in shipments between New Brunswick points and United States points, but was not available for movements wholly within Canada. The United States initial points of shipment especially referred to as using the Eastman car were points in Maine adjacent to the potato producing sections of New Brunswick.

The Interstate Commerce Commission, in *Boston Potato Receivers' Association v. Bangor and Aroostook Rd. Co. et al, 25 I.C.C., 189,* gives a description relating to the movement from Aroostook county, Maine. From the same case it appears that the Eastman heater car charge for the service varied from $14 to $25 per car.

It further appeared that potatoes are shipped from New Brunswick points to other Canadian points in lined box cars of the 79,000 series of Canadian Pacific cars. It was also set out that in various cases box cars have been lined by shippers at their own expense, and that as the railway does not guarantee the return of the cars so lined the shipers have been subjected to considerable expense; that the lining by shippers is done where lined box cars are not immediately available. It also appeared that shippers supply stoves and fuel for the heating and send men forward in charge of the cars. It was further stated that the lined cars have proved unsatisfactory, and that losses were incurred and damages sustained which had not been paid by the railway company. It further appeared that the main matter to be considered was frost damage.

Held, Commissioner McLean in his judgment, November 6, 1917, concurred in by Assistant Chief Commissioner Scott, that the equipment of cars is a matter con-

cerned with operating conditions and operating efficiency, and that the matter having been carefully considered by the Board's officials, the Board was not justified in making such an experimental Order as that asked for, there being no assurance that it would, in realty, effect an improvement. Held, further, that this is without prejudice to any application that may be launched in the event of the improvements made not adequately taking care of the situation, and that the Board would also from time to time check up the operating efficiency of the equipment alloted to this traffic. *24 Can. Ry. Cas. 46.*

Re APPLICATION OF LOCAL IMPROVEMENT DISTRICT NO. 190, OKOTOKS, ALTA., FOR A CROSSING OVER THE MACLEOD BRANCH OF THE CALGARY AND EDMONTON RAILWAY AT ALDERSYDE, ALTA.

After hearing the parties at a sittings held in Calgary, a personal inspection of the crossing for which the municipality applied was made by the Commissioners. The railway company suggested the diversion of the highway southerly parallel with the company's tracks, and it appeared that the arrangement would eliminate the crossing of two sidings, but that there would be still two main line tracks to be crossed.

Held, Assistant Chief Commissioner Scott in his judgment, November 12, 1917, concurred in by Commissioner McLean, that the application should be granted, and that the crossing should be made on the line of the highway.

NEWMAN *v.* EDMONTON, DUNVEGAN & BRITISH COLUMBIA RAILWAY COMPANY.

Lower or joint tolls will not be granted to a retail dealer, in a distant point (such as Winnipeg), seeking to do a mail-order business (L.C.L. lots) through a well-established distributing point (such as Edmonton, 848 miles from Winnipeg), into territory tributary thereto (the Peace River country), which would give the shipper a toll lower than the local toll at the distributing point (Edmonton).

In re Western Tolls (*Western Tolls Case*), *17 Can. Ry. Cas., 123,* at p. 156; *In re Edmonton, Dunvegan & British Columbia Ry. Co.* (*Mountain Scale Tolls Case*), *22 Can. Ry. Cas. 1.* referred to.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, concurred in by Mr. Commissioner McLean, November 15, 1917, *22 Can. Ry. Cas., 399.*

Re VIRDEN SUBWAY UNDER CANADIAN PACIFIC RAILWAY.

The Board by an Order, dated November 29, 1916, directed the Canadian Pacific Railway Company to build a pedestrian subway under its tracks in the town of Virden, Man. It was further provided in the Order that should an extension of the subway in the future be necessary the cost of such extension should be borne equally by the parties.

Before commencing the construction of the subway, the railway company, in order to insure the payment of one-half the cost by the municipality, asked that a certain amount of cash be deposited in a bank to the credit of the Board as security. Although the railway company had at first wanted a larger amount, it was subsequently arranged that the town were to put up a bond of $5,000 as security for its contribution towards the subway.

The railway company submitted that the total cost of the subway would be in excess of $10,000 and asked for an increase in the amount of the security given. It further appeared that the work was under way but the subway was not yet completed.

Held, Assistant Chief Commissioner Scott in his judgment, November 16, 1917, concurred in by Commissioner McLean, that the town of Virden should at once pay to the railway company the sum of $5,241.22, which was one-half of the total amount spent on the undertaking.

APPLICATION OF THE TORONTO, HAMILTON AND BUFFALO RAILWAY COMPANY TO PERMANENTLY DIVERT AND CLOSE CERTAIN STREETS IN THE MUNICIPAL CORPORATION OF THE TOWNSHIP OF WELLAND AND TOWNSHIP OF BERTIE, ONT.

It appeared at the hearing that no objection was made to the application, and that there was no question whatever as to the necessity in the public interest of the added railway facilities that the application made possible. It further appeared that the diversion was also in case of highway traffic, in that the diagonal crossing over the main line of the Michigan Central and Grand Trunk Companies by the Bowen road was done away with, the traffic being diverted into the Thompson Road subway. The closing of parts of Thompson and Phipp streets, giving these highways an entrance to the subway on high ground where a proper view could be had, instead of in a fill, was also in case of the highway user. It further appeared that the parties did not agree as to the conditions under which the work should be done.

Held, Chief Commissioner Drayton in his judgment, November 29, 1917, concurred in by Assistant Chief Commissioner Scott, Commissioners McLean and Boyce, that the work in question should be authorized and that an Order should go as applied for, except that no Order could be made on the application of the company for authority to expropriate certain property, no proper case having been made out in this regard. Held, further, that there was no reason why the question of the apportionment of costs ought not to be considered after the work had been done and its results rendered apparent.

Re APPLICATION OF TOWN OF WALKERVILLE FOR PROTECTION AT CROSSING OF TRACKS OF THE GRAND TRUNK AND PERE MARQUETTE RAILWAY COMPANIES OVER THE DEVONSHIRE ROAD.

It appeared from the evidence that the Devonshire road was an old and important highway leading to the wharf used by the ferry between Walkerville and Detroit; that the Devonshire road was junior to the G.T.R. Company but senior to the P.M.R.; that the Grand Trunk crossing was protected by gates operated day and night.

Held, Assistant Chief Commissioner Scott in his judgment, November 29, 1917, concurred in by Commissioners McLean and Boyce, that the gates should be operated from a tower where a better view of the trains could be had, and that the Pere Marquette tracks should also be protectetd by gates which could be operated from the same tower by the same man who operated the Grand Trunk gates, and the cost apportioned between the parties interested. *24 Can. Ry. Cas.*

Re PROTECTION AT WALKER ROAD CROSSING, GRAND TRUNK RAILWAY AND PERE MARQUETTE RAILROAD, IN THE TOWN OF WALKERVILLE, ONT.

It appeared from the evidence that there was no protection at present at the crossing of Walker road, in the town of Walkerville, over the tracks of the Grand Trunk Railway and the Père Marquette Railroad, other than an electric bell which was operated from a push-button and not electrically bonded with the tracks of the railway.

Held, Assistant Chief Commissioner Scott in his judgment, November 30, 1917, concurred in by Commissioners McLean and Boyce, that the protection afforded was inadequate, that the crossing was a dangerous one, and the Board directed that the crossing be protected by gates operated day and night from a tower, the cost to be distributed in the proportion set forth in the judgment. *24 Can. Ry. Cas.*

SESSIONAL PAPER No. 20c

CITY OF MONTREAL *v.* GRAND TRUNK RAILWAY COMPANY.

In apportioning the cost of protection at railway crossings of highways which have been in existence for many years, the volume of traffic on the highway and railway respectively, which has made the crossing dangerous, is an element to which more weight should be given than the question of seniority merely.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, concurred in by the Deputy Chief Commissioner and Mr. Commissioner Goodeve, December 1, 1917. *22 Can. Ry. Cas., 444.*

JURISDICTION—RAILWAY ON HIGHWAY—CITY OF MONTREAL *v.* CANADIAN PACIFIC RAILWAY COMPANY.

(Longue Pointe Spur Case.)

In dismissing an application by a railway company to construct a spur on a highway, the Board has no jurisdiction to impose terms on the municipality concerned as to the use it should make of the highway in question. The Board's jurisdiction is confined to authorizing the construction and maintenance of the railway on the highway.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, dated December 4, 1917. *21 Can. Ry. Cas. 224.*

TOWN OF THE PAS *v.* GREAT NORTHWESTERN TELEGRAPH COMPANY.

The Board has recognized that while, in general, telegraph tolls must be looked at from the standpoint of a general scheme, yet where business is in a development stage the isolation of the telegraph line and the particular facts of the particular section should be considered.

In re Telegraph Tolls, 20 Can. Ry. Cas. 1, at pp. 18, 21, 31, 58, 59, followed.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by Assistant Chief Commissioner Scott and Mr. Commissioner Goodeve, December 4, 1917. *22 Can. Ry. Cas., 402.*

Re APPLICATION OF TOWN OF MONTREAL EAST TO CONSTRUCT HIGHWAYS ACROSS THE LINE OF THE CANADIAN NORTHERN RAILWAY COMPANY AT CHAMPETRE AVENUE, GAMBLE AVENUE AND GEORGE V. AVENUE.

Held, Assistant Chief Commissioner Scott in his judgment, December 5, 1917, concurred in by Deputy Chief Commissioner Nantel and Commissioner Goodeve, after visiting the location of the different crossings applied for, that no necessity existed for the opening of George V. avenue across the railway; that Gamble avenue should be opened, and that instead of opening Champetre avenue the next street, known as Boulevard Montreal East, should be opened across the railway, and that all work in connection with the crossings authorized should be done at the cost of the municipality.

Re REFRIGERATOR CARS FOR THE TRANSPORTATION OF MILK WHERE A SPECIAL MILK CAR IS USED FOR THE PURPOSE.

The Baby Welfare Committee of the University Settlement of Montreal pointed out to the Board that the cars used for the transportation of milk in the summer time are not equipped with ice or any other cooling process. and that, therefore, the milk arrived in the city of Montreal overheated and damaged for public consumption.

It appeared from the evidence that there were a number of trains running into Montreal which carried milk and that some of the runs took over four hours to reach the city, and that in some cases special cars were used for the carrying of milk; that no provision was made for the milk being brought to a low temperature before shipment; that in some cases it was pre-cooled, but in others not.

Held, Assistant Chief Commissioner Scott in his judgment, December 5, 1917, concurred in by Deputy Chief Commissioner Nantel and Commissioner Goodeve, that at the present time, owing to the very large shipments of meats and other perishable articles for overseas which had to be carried in refrigerator cars, it would not be reasonable for the Board to require the railway companies to supply refrigerator cars for the transportation of milk to Montreal.

Re HIGHWAY CROSSING NOTRE DAME STREET, MONTREAL, OVER TRACKS OF CANADIAN NORTHERN QUEBEC RAILWAY AT BOUT DE L'ISLE, LAVAL DE MONTREAL.

It appeared from the evidence submitted that there have been several accidents at the crossing in question and that as a result thereof the matter had been set down for hearing at a sittings of the Board held in Montreal.

Held, Assistant Chief Commissioner Scott in his judgment, December 5, 1917, concurred in by Deputy Chief Commissioner Nantel and Commissioner Goodeve, that the matter should be allowed to stand for six months to enable the railway company and the municipality to enter into negotiations with reference to suggested diversion of the highway, but that the crossing could not be allowed to continue in its present unprotected condition.

COMPLAINT OF CANADIAN LUMBERMEN'S ASSOCIATION RE INCREASED CARLOAD MINIMUM WEIGHTS FOR LUMBER, BOTH DOMESTIC AND EXPORT.

Complaint having been made by the Canadian Lumbermen's Association, and others, against the increased carload minimum weights for lumber, both domestic and export, to take effect on varying dates since April 22, 1917, the matter was set down for hearing and was heard at a sittings of the Board in Ottawa July 17, 1917.

It appeared that exception was taken by shippers and their representatives to the increases in so far as lumber loaded in box cars was concerned. It was also noted that the difficulties in the way of obtaining a uniform loading were recognized; also that the weight that could be loaded into a particular car varied with the density, seasoning and dimensions.

The evidence as set out in the oral testimony and in the exhibits filed, showed that in general lumber loads heavier than the old minimum and frequently heavier than the new; that there were also many instances where the load was lower than the tariff [illegible].

The railway companies advocated the proposed increases with a view to obtaining heavier and more efficient loading, and with the existing situation in regard to rolling stock, it was in the shippers' interest to have as efficient loading as possible, and this was not contested by the shippers at the hearing. What was involved was, therefore, what, considering all the circumstances, was reasonably heavy loading.

Held, Commissioner McLean in his judgment, December 5, 1917, concurred in by Chief Commissioner Drayton, Assistant Chief Commissioner Scott and Commissioner Goodeve, that the checks of actual loadings made by the Board's officials were reasonable, and that the Board would accordingly order their adoption.

SESSIONAL PAPER No. 20c

CANADIAN PACIFIC RAILWAY COMPANY *v.* SASKATOON AND MOOSEJAW BOARDS OF TRADE.

The Board may authorize the removal of a transfer track used for the interchange of traffic, when the interchange can be done at another point, resulting in economy of rolling stock movement in the public interest, thus relieving the strain on the existing facilities by removing the track and using the rails and ties at other points where there is urgent need.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by Assistant Chief Commissioner Scott, December 17, 1917, *22 Can. Ry. Cas., 349.*

COMPLAINT OF THE NORTHERN PULP COMPANY (ONTARIO GOVERNMENT) CAMPBELLFORD, ONT., PER HYDRO ELECTRIC POWER COMMISSION, *re* CANADIAN NORTHERN RAILWAY FREIGHT TARIFF SUPPLEMENT NO. 20 TO C.R.C. NO. E-860, INCREASING FREIGHT RATES ON PULPWOOD.

This was a complaint of the Northern Pulp Company of Campbellford, Ont., through the Hydro Electric Power Commission, against the Canadian Northern Railway Freight Tariff Supplement No. 20 to C.R.C. No. E-860, increasing the freight rates on pulpwood to Campbellford.

It appeared that pulpwood is shipped from points on the Irondale, Bancroft & Ottawa and the Central Ontario Railways to Campbellford on the Grand Trunk Railway for manufacture and reshipment. The Central Ontario and the Irondale, Bancroft & Ottawa Railways are now portions of the Canadian Northern System. The haul involved is thus a two-line one, and the movement is over the Canadian Northern to Anson Junction and thence by the Grand Trunk to Campbellford.

It was stated at the hearing that Coe Hill and Maynooth were representative points of shipment. The distance from Maynooth to Anson Junction is 87 miles, while from Anson Junction to Campbellford the distance is 11·2 miles, which, for tariff purposes, may be taken as 12 miles.

The rate for some time, taking Maynooth as a representative shipping point, to Campbellford has been 4½ cents per 100 pounds, this being made up of 3 cents to the Canadian Northern and 1½ cents to the Grand Trunk. Tariffs filed, effective September 1, 1917, proposed to increase the rate in question to 6½ cents. This rate is referred to as typical.

On complaint of the Hydro-Electric Commission of Ontario, the rates in question were suspended by Order No. 26476, of August 29, 1917; and the matter was set down for hearing.

Held by Commissioner McLean in his judgment, December 8, 1917, concurred in by Chief Commissioner Drayton, Commissioners Goodeve and Boyce, that the C.N.R. and G.T.R. factors of the through rates compared favourably with the local rates to and beyond Anson Junction, reductions therefrom having been made on joint movement account; regard being also given to the absence of second haulage of the wood products in the case of the C.N.R.; and the through rates not being deemed unreasonable, the suspension of the joint rates as filed, should be raised.

CITY OF WINNIPEG *v.* CANADIAN PACIFIC RAILWAY COMPANY.

In obtaining permission from the Board to lay a water main under the railway yard of the respondent, the applicant, who is a mere licensee, should assume responsibility for all damages that may occur, arising from any negligence on the part of its employees or those of the respondent, connected with the laying, renewing or repairing of its water pipes, through the respondent's property.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, December 10, 1917, concurred in by Mr. Commissioner McLean. *23 Can. Ry. Cas., 75.*

Re WINNIPEG JOINT TERMINALS AND MIDLAND RAILWAY COMPANY OF MANITOBA.

This was a reference to the Board of the Winnipeg Joint Terminals & Midland Railway Company of Manitoba, under clause 1, of article 4, of an agreement, dated April 30, 1912, made between the Canadian Northern Railway Company, the Grand Trunk Pacific Railway Company, His Majesty the King, and the Midland Railway Company, it being agreed that the matter in dispute should be decided upon the facts and arguments of counsel, submitted in writing.

The dispute under the agreement, and, under a clause thereof, submitted for the decision of this Board is stated in the original application to this Board to be:—

> "whether or not the Midland Railway Company is liable to reimburse the Joint Terminals for monies paid to employees under the Workmen's Compensation Act of Manitoba."

The amounts so claimed against the Midland Company as its alleged proportion of such payments being as follows:—

Share of compensation	paid	to	Harry Irwin	$120 73
"	"	"	E. Gorman..	18 16
"	"	"	W. W. Sills.	855 74
"	"	"	C. J. McAuley..	5 77
"	"	"	J. H. Horne.	2 99
"	"	"	J. Mason	155 75
"	"	"	Martin Dolan..	29 47

The proportion claimed being, as contended by the Terminals Company under section 4 of article 3 of the agreement.—

> "that proportion thereof (the whole) which the number of its (the Midland's) cars passing over the joint section or into and out of the terminals, as the case may be, bears to the total number of cars of all the parties passing over the joint section or into or out of the terminals."

There is no dispute as to the correctness of the proportion charged.

Held, Commissioner Boyce in his judgment, December 10, 1917, concurred in by Assistant Chief Commissioner Scott and Commissioner McLean, that the question submitted, namely, "Whether or not the Midland Railway Company is liable to reimburse the Joint Terminals for monies paid to employees under the Workmen's Compensation Act of Manitoba," should be decided in the negative.

Re OSHAWA RAILWAY COMPANY PASSENGER SERVICE.

Application was made to the Board for an Order directing the Oshawa Railway Company to furnish a pasenger service to and from the Canadian Pacific Railway Company's station to the business portions of the town of Oshawa, such as they were giving to the Grand Trunk Railway Company.

It appeared that by agreements entered into between the Oshawa Railway Company and the town of Oshawa, dated May 5, 1893, and May 17, 1895, confirmed by 56 Victoria, chapters 73 and 56 Victoria, chapter 110, Ontario, the Oshawa Railway is obliged to operate a passenger service connecting with all passenger trains of the Grand Trunk Railway Company stopping at Oshawa Junction. This, in a general way, governs the time-card, there being also intermediate cars to furnish service to the citizens of Oshawa.

It also appeared that there was access by stairs from the station to Simcoe street on which the street car operated; that the Canadian Pacific station was intermediate to the Grand Trunk station.

It was submitted by the street railway company that the street cars connecting with the Grand Trunk could also render the Canadian Pacific service; but it was also admitted that this is conditional on the Grand Trunk trains and the Canadian Pacific trains being on time.

Held, Commissioner McLean in his judgment, December 11, 1917, concurred in by Chief Commissioner Drayton and Assistant Chief Commissioner Scott, that in view of the fact that the spread in the number of passengers carried between 1913 and 1916 was only 41, that there was nothing before the Board which justified it in concluding that the additional service would recoup the special costs incidental to the granting of the application, and that the Board, therefore, would not be justified in making the Order asked for.

CITY OF WINDSOR V. BELL TELEPHONE COMPANY—BELL TELEPHONE COMRANY V. CITY OF WINDSOR.

In approving the route on a highway of the Bell Telephone Company, the jurisdiction of the Board is confined to fixing such terms, conditions or limitations as refer to the lines, wires or poles within the municipality. The Board has no jurisdiction to require, as a condition, the payment of any money or the granting of free telephones to the municipality.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, concurred in by Mr. Commissioner McLean and Mr. Commissioner Boyce, December 11, 1917. *22 Can. Ry. Cas., 416.*

Re LAKE AND RAIL RATES, TORONTO TO WESTERN POINTS VIA CANADIAN NORTHERN RAILWAY.

The Board by an Order, dated April 12, 1917, required the Canadian Northern Railway Company to publish and file forthwith a tariff showing rates from Toronto by lake and rail, to points west of the head of the lakes, which should not exceed rates from points on the Canadian Northern east of Toronto to some destinations via rail to Toronto, and lake and rail to destination.

At that time the Canadian Northern Steamship Company (a company controlled by stock ownership by the Canadian Northern Railway Company) owned a number of vessels known as the *Ames, Pellatt, Plummer, Napleton, Beaverton,* and *Saskatoon.* These vessels were chartered to the Canada Steamship Lines and operated by that company with boats owned by that company in conjunction with the Canadian Northern Railway Company.

Held, Assistant Chief Commissioner Scott in his judgment, December 12, 1917, concurred in by Commissioner McLean, that as the Canadian Northern Steamships now owned no vessels on the lake route from Toronto to Port Arthur, and the Canadian Northern Railway Company does not "own, charter, use, etc.", any vessell on this route, within the provisions of subsection 3 of section 333, that the provisions of the "long and short haul clause" do not apply and that the Board's Order made herein should be repealed.

Re APPLICATION OF TOWN OF DUNNVILLE TO OPEN HELENA, CENTRE AND OTHER STREETS ACROSS THE GRAND TRUNK RAILWAY.

It appeared from the evidence that when the Grand Trunk Railway Company's application for leave to double track its railway over a number of streets in the town of Dunville was heard by the Board, the town of Dunville urged that the street crossings now applied for should be opened as a condition to the Grand Trunk Railway Company's application being granted. The company's application was granted, but the question of opening certain streets in the town

of Dunnville was permitted to remain in abeyance pending negotiations between the parties. The parties, however, being unable to agree as to what streets should be opened, the matter was again brought before the Board for adjudication, and the Board directed that an Order should go for the opening of Centre and Helena streets at the expense of the municipality. Judgment of Assistant Chief Commissioner Scott, dated December 12, 1917, concurred in by Commissioner Goodeve.

APPLICATION OF THE CORPORATION OF THE CITY OF HAMILTON, FOR AN ORDER OR DIRECTION ADOPTING THE RECOMMENDATIONS CONTAINED IN THE REPORT OF MESSRS. W. F. TYE AND N. CAUCHON, CONSULTING ENGINEERS, DATED JULY 3, 1917.

The Board, on September 14, 1917, received a letter from the city clerk of Hamilton, Ont., enclosing an extract from the report of the works committee of that city, adopted by the council of the corporation of the city of Hamilton, on September 11, 1917, and also the report of Messrs. Tye and Cauchon. The extract enclosed reads as follows:—

> "That the report of W. F. Tye and N. Cauchon, on the railway situation of Hamilton, Ont., as embodied in proposal 'C' be approved, and that the same be sent on to the Board of Railway Commissioners for Canada as representing the views of the city of Hamilton on the railway situation in this city and that the Board be petitioned to permit no new railway entrances into Hamilton and no new extensions, additions, or changes in existing railway works in Hamilton, or its vicinity, unless same are in accordance with said proposal, and to so notify the railway companies concerned, and that for the purpose of relieving congestion and freight traffic through the city, the railways be asked to adopt the measures proposed."

A further communication was received on October 20, 1917, from the city clerk, who forwarded a copy of the following extract from the report of the board of control, adopted by the city council at its meeting on the 17th of that month, as follows:—

> "That application be made to the Board of Railway Commissioners for Canada, requesting the Board:—
>
> "(*a*) to adopt the recommendations contained in the report of Messrs. W. F. Tye and N. Cauchon, consulting engineers, dated the 3rd day of July, 1917, upon the railway situation in Hamilton; and
>
> "(*b*) to refuse to grant permission to any railway company for the construction or maintenance of any work that would be at variance or interfere with the carrying out of the recommendations or provisions contained in the said report."

The application was heard in Hamilton on October 22, last, with an application of the Toronto, Hamilton and Buffalo Railway Company, when judgment was reserved; and a formal application has been since filed by Mr. Waddel, as follows:—

> "The corporation of the city of Hamilton, hereby applies to the Board for an Order or direction adopting the recommendations contained in the report of Messrs. W. F. Tye and N. Cauchon, consulting engineers, dated the 3rd day of July, 1917, upon the railway situation in Hamilton, a copy of which is on file with the Board, and refusing to grant permission to any railway company for the construction or maintenance of any work that would be at variance or interfere with the carrying out of the said recommendations or provisions contained in the said report."
>
> "This application is, in addition, supplementary to the application of the corporation of the city of Hamilton. File No. 28179.

Under File No. 28230, the Toronto, Hamilton and Buffalo Railway Company made its application for the Board's Order authorizing the taking by the applicant company without the consent of the owners of, *inter alia*, the lands in the application described, and in the interest of all parties claiming any right or title thereto or therein.

The application shows that the purposes for which the lands are required are:—

> "To provide more ample space than the railway company possesses for the traffic of its railway, for the construction of additional railway tracks for yard purposes, for the proper and efficient handling of coal, coke, and general merchandise, to prevent traffic congestion and to secure the efficient construction, maintenance, and operation of the railway of the applicant company."

The lands covered by the application belong to the city of Hamilton. They may be generally described as a strip of undeveloped property running from Sherman street, on the west, to Gage street, on the east, lying immediately south of the applicant railway company's property, and with a width of 120 feet.

The Tye-Cauchon report contains three proposals:—

Proposal "A" deals with "Entrance of New Lines Only."

Proposal "B" is headed "Entrance of New Lines and Elimination of present tracks on Ferguson Avenue."

These tracks belonging to the Grand Trunk, and the Toronto, Hamilton & Buffalo Railway is not interested in them.

Proposal "C" not only deals with the "Entrance of New Line," but also with "The Concentration on one right of way through the city of All Lines Existing or to be built."

As the report shows, the adoption of this proposal requires the elimination of:—

> "All Toronto, Hamilton & Buffalo Railway main lines, yards, and spurs from a point near Red Hill Creek between Stoney Creek and Bartonville, the wye at Dundurn street, west of the Hunter Street tunnel, together with the greater part of the Gage avenue cross town line."

The report further reads:—

> "The Toronto, Hamilton & Buffalo Railway Company should build a new line from a point on its main line near Red Hill Creek between Stoney Creek and Bartonville to a point on the main line of the Grand Trunk near Parkdale avenue, and to a point on the Burlington Beach line near the southern end of the beach."

In short, the adoption of the report involves the removal of the companies' railways from their present location, the elimination of the company's station, and the adoption of a right of way through Hamilton for all railways, the existing right of way of the Grand Trunk being in the main used for such purposes.

The main object of the application is entirely similar to the application made by the city, under file No. 23009—the application in that case being for an Order:—

> "Compelling the Toronto, Hamilton & Buffalo Railway Company to abandon its entrance into the city of Hamilton via Hunter street, and adopt, in conjunction with the Grand Trunk Railway system, and the Canadian Northern Ontario Railway Company, in the city of Hamilton, a common location in the north end of the city; and that the portion of the company's railway in the said city, coloured yellow on a plan hereunto annexed, be permanently diverted to the said common entrance and location, and directing the company to construct its tracks on the new route shown on the said plan as such common entrance for all railways entering the city of Hamilton."

Held, Chief Commissioner Drayton in his judgment, December 12, 1917, concurred in by Commissioner Goodeve, that the Board had no jurisdiction whatever to issue an Order adopting and carrying into effect the recommendations contained in the report, and that the application must be refused.

Held, further, that apart from all questions of jurisdiction no case had been made out by the city of Hamilton which would enable the report to be adopted.

Held, further, that with regard to the application of the Toronto, Hamilton & Buffalo Railway Company for an Order authorizing the taking by the applicant company of certain lands belonging to the city of Hamilton, that the enlargement of the Kinnear yard was at least both feasible and convenient, and that, under the circumstances, the Board had no alternative but to approve the application, unless some arrangements could be made between the parties.

CITY OF MAISONNEUVE *v.* CANADIAN NORTHERN RAILWAY COMPANY.

Where a highway crossing over a railway has not been legally established prior to April 1, 1909, it may be considered a highway crossing of the railway at grade level within the meaning of the Railway Grade Crossing Fund, section 239 (A), 8 and 9 Edward VII. chapter 32, section 7, and the Board may legalized the crossing and make a contribution of 20 per cent out of that fund towards the installation of gates, the remainder of the costs of protection to be borne by the applicants.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, concurred in by the Deputy Chief Commissioner and Mr. Commissioner McLean, December 13, 1917. *22 Can. Ry. Cas., 446.*

Re APPLICATION OF MESSRS. CAYER, ANCTIL AND PROCTA, FOR FARM CROSSING OVER THE TRACKS OF THE GRAND TRUNK RAILWAY.

It appeared from the evidence that none of the applicants had farm crossings although all three owned land on both sides of the railway; that the railway was senior to the rights of the applicants as it had secured its right of way by charter from the Crown.

Held, Assistant Chief Commissioner Scott in his judgment, December 14, 1917, concurred in by Deputy Chief Commissioner Nantel and Commissioner Goodeve, that under the conditions existing it was the policy of the Board to order a crossing if it thought the circumstances warranted it, but to place the cost of construction of the crossing upon the landowner.

IN *re* INCREASE IN PASSENGER AND FREIGHT TOLLS. FILE NO. 27840.

(Increase in Rate Case.)

1. Tolls—Increase—Jurisdiction—War Measures Act, 5 Geo. V, Ch. 2 (C).

The War Measures Act, 5 George V. Ch. 2, does not confer on the Board any jurisdiction to increase tolls, or to advise the Governor in Council to increase them, in aid of the finances of carriers; the Board's jurisdiction in that regard is that given by the Railway Act.

2. Tolls—Limitation—Jurisdiction—Increase—Maximum—Special Act, 60-61 Vic. Ch. 5. (C)-Railway Act, Sec. 3.

The Act of the Parliament of Canada, 60-61 Vic. Ch. 5, providing for a subsidy to the Canadian Pacific Railway Co. in respect of the "Crow's Nest line" and for a limitation of freight tolls on lines then in operation between Fort William and points to the west thereof, is a special Act within the meaning of sec. 3 of the Rail-

way Act. It therefore over-rides any provisions of the Railway Act inconsistent with it and limits the general jurisdiction of the Board as to tolls. The Board has no power to advance tolls on the Canadian Pacific Railway within that territory beyond the maximum fixed by the special Act.

3. Tolls—Limitation—Jurisdiction—R. S. M. 1901, Ch. 39, 1 Edw. VII, Ch. 58 (C), Sec. 3—"General Advantage of Canada."

The Act of the Legislature of Manitoba (Manitoba statutes, 1901, ch. 39) limiting tolls to be charged over lines of the Canadian Northern Railway System within that province is ultra vires as regards the Canadian Northern Ry. Co., a Dominion corporation; and as regards subsidiary companies incorporated by the province and subsequently declared to be for the general advantage of Canada; it is superseded by the Railway Act in so far as the two are inconsistent and also by 1 Edw. VII, ch. 53, sec. 3 (Dom.); so that the Board's General jurisdiction under the Railway Act as to tolls is not limited or affected thereby.

4. Tolls—Increase—Lower—Limitation—Jurisdiction—Unjust Discrimination.

The Board in considering tolls to be authorized declined to give effect to an agreement to limit tolls made between a railway company and a province and confirmed by provincial legislation, where the company had afterwards passed under Dominion jurisdiction, and the agreement if observed would either have prevented an increase of tolls necessary in the public interest, or resulted in discriminatory lower tolls in that province as compared with other provinces with similar conditions.

(Crow's Nest Pass Coal Co. v. Canadian Pacific Ry. Co., 8 Can. Ry. Cas. 33, at p. 41; Regina Board of Trade v. Canadian Pacific and Canadian Northern Ry. Co. (Regina Toll Case), 11 Can. Ry. Cas. 380, at p. 391, followed.)

5. Tolls—Unremunerative—Fair—Just.

The Board can neither order nor enforce tolls which are unremunerative to the carriers without infringing the principle of the Railway Act by denying carriers a fair and just toll.

6. Tolls—Low—High—Unreasonable—Cost of Service.

An unduly low rate constitutes an unreasonable rate just as much as an unreasonably high one and the question whether a rate is unduly low or unduly high can only be determined with a knowledge of the cost entailed by the service.

7. Tolls—Limitation—Low—Reasonable—Agreement—Unremunerative and Improvident—Maintenance and Operation—Public Interest.

An agreement to limit tolls entered into by a railway company will not be enforced or regarded by the Board unless made binding upon the Board by valid enactment, if it is found that the tolls agreed upon are unremunerative and improvident, so that the railway cannot be properly maintained and operated. In the public interest, when tolls reserved by contract prove unreasonably low in the face of changed conditions and increased costs, the tolls must be made reasonable notwithstanding the contract.

(British Columbia Pacific Coast Cities v. Canadian Pacific Ry. Co. (Vancouver Interior Rates Case), 7 Can. Ry. Cas. 125, at p. 146, followed.)

8. Tolls—Similar—Increase—Maximum—Unjust Discrimination—Statue, 60-61 Vic. Ch. 5 (C).

Holding that under 60-61 Victoria, ch. 5, it could not increase rates beyond the maximum rates thereby fixed on lines of the C.P.R. Co. in operation when that Act was passed, the Board also held that to prevent discrimination the same maximum should be applied to the whole system of that company as now operated; and that similar rates must be applied to other railways in the territory affected.

9. Tolls—Unremunerative and Insufficient—Standard—Increase—Maximum—Service—Proper Agreement—60-61 Vic. Ch. 5 (C).

The Board having regard to increased cost of maintenance and operation and finding that tolls theretofore charged had been unremunerative and insufficient to ensure a proper service, authorized the railway companies concerned to submit new standard freight and passenger tariffs providing for a general increase of maximum mileage tolls on a percentage basis, subject to the Crow's Nest Pass agreement and statute (60-61 Victoria, ch. 5), and to certain provisions and exceptions set out in the judgment of the Board.

"A general application for an increase in passenger and freight tolls throughout Canada on the ground of the increase in operating expenses, owing largely to war conditions.

"The application was heard at various times and places.

"The facts are fully set out in the reasons for judgment of the Chief Commissioner, dated December 26, 1917, concurred in by Assistant Chief Commissioner Scott, Deputy Chief Commissioner Nantel, Commissioner McLean and Commissioner Goodeve." 22 Can. Ry. Cas. 49.

The first application filed was that of the Canadian Northern Railway Company on behalf of itself and all other railway companies operating in Canada. Applications largely similar in form and all having the same object have since been filed by the Lake Erie & Detroit River, Hamilton & Buffalo, Grand Trunk, Grand Trunk Pacific, Père Marquette, New York Central, Michigan Central, Canadian Pacific, Kettle Valley, and Great Northern Railway Companies.

The grounds upon which the applications were made are stated shortly in the Canadian Northern Railway's application, as follows:—

> "Nothing is more essential to the welfare of Canada, whether considered in its own interests or as a part of the Empire, than that the railways operating within its borders should be in a position to respond immediately and effectively to the fullest demands made upon them, either by the general commerce of the country or in connection with the defence of the realm.
>
> "Every industry, whether engaged in war preparation or in the manufacture of commercial commodities, and every individual in Canada is affected, either directly or indirectly, by the efficiency or inefficiency of transportation facilities, and while at the present time, owing to scarcity of skilled labour and other causes due to the war, it may not be possible to maintain the transportation service in a condition of highest efficiency, it is an imperative duty on the part of every one to see that the service is adequately sustained.
>
> "It is apparent that under the present revenues and rates applicable to their enterprises it is impossible to adequately sustain their service, to make needed betterments, or to meet the enormous decreases in net operating income attributable to the very substantial increased cost of fuel coal, materials, supplies, equipment of all kinds and wages entering into the maintenance and operation of their railways.

"The applicants submit herewith a summarized statement showing that upon the Canadian Northern system alone the increase cost to it of fuel coal, materials and equipment for the ensuing year as compared with the prices in the year just closed and prepared on the assumed basis of the same quantity of business and the same volume of traffic in the two respective years will amount to over five millions of dollars; that these increases are attributable to the horizontal advance in the prices of fuel coal and other commodities purchased by the applicants in the United States and Canada as required, and are also in part attributable to increased duties, war taxes, and increased transportation costs of connecting carriers, both lake and rail, on imported materials. Since the rates of the railway companies are absolutely fixed under the Railway Act, the applicants are powerless to increase their revenue, to equalize or even to approach equalization of this increased cost in fuel coal and other commodities, and they are faced with a huge deficit in net operating income unless immediate relief is granted.

"Substantial increases in both freigth and passenger rates are therefore imperatively necessary, and the emergency requires that the relief granted should be made in the most expeditious manner and with the least possible delay.

"If advances in rates be proposed and filed with the Board in compliance with its present rules governing the publication of tariffs, a long delay must necessarily ensue before such tariff publication can be prepared and made effective, and for these reasons it is deemed expedient that any advances permitted should be made by virtue of the War Measures Act and that the Board upon the passage of any Order in Council as may be recommended by the Board should permit the publication of flat percentage advances to existing tariffs by supplementary tariffs filed with the Board and that such supplementary tariffs should be published and made effective at the earliest possible moment."

The applications as originally filed were unaccompanied by notices to representative public bodies. Under the direction of the Board, notices were given. The following public hearings have taken place:—

At Victoria on June 5.
At Vancouver on June 6.
At Toronto on June 12.
At Nelson on June 16.
At Calgary on June 18.
At Edmonton on June 19.
At Montreal and Saskatoon on June 20.
At Regina on June 21.
At Winnipeg on June 22.
At Fort William on June 25.

At some points the application has been opposed without qualification; at other points a qualified opposition has been raised; while at others no objection is taken.

Some of the larger shippers, in views of the admitted increased cost of railway service, have looked upon the increase as inevitable. The Quaker Oats Company writes that it is agreeable to such general advances in freight rates, as in the opinion of the Board, seem to be justified by conditions now existing.

The secretary of the Hamilton Board of Trade was instructed to advise this Board that no objection would be taken, provided such advance was shown to be justified. That Board was at difficulty, however, in understanding why an increase of 10 per cent, 12 per cent, or some other percentage rate was not adopted; and taking the position that, if the Railway Board determines that the railways are entitled to an advance as

a temporary measure, the privilege be confined to some specific, definite time. The suggestion made was a year, and at the end of that time the present rates should automatically come into effect.

Mr. Georgeson, who appeared for the Calgary Board of Trade, thus states the position of his Board:—

> "Calgary will not submit any evidence on this question. It agrees that the cost of operation has increased, particularly in the items of fuel and wages. We have no means of knowing whether the proposed increase is necessary or not. The Commission can secure the necessary evidence from the railroads, and we will leave the matter in your hands for adjustment. We cannot tell whether 5 per cent or 25 per cent is sufficient. We have no means of offering any evidence. We do agree to the general principle that there are reasons why there should be an increase of rates."

The submission of the Toronto Board of Trade is as follows:—

> "On behalf of interested members this Board submits that the transportation service generally has been and is at present inadequate, and it is feared that owing to the financial position of certain companies, lacking materials and equipment at a greatly increased cost, conditions will not improve unless the necessary capital is expended to meet these requirements and it is imperative that immediate action be taken to meet the emergney.
>
> "To this end I am instructed to state that if the Board of Railway Commissioners decides that the exigencies of the situation may best be met, and the required service provided and maintained, by granting an increase in rates not exceeding 15 per cent, this Board will not offer opposition thereto provided:—
>
> "1. That coal and coke and such articles or commodities as are of little value and carry relatively heavy freight charges, such as crushed stone, sand, clay, gravel, etc., shall be exempt therefrom;
>
> "2. That tolls covering such regulations and services as switching, weighing, demurrage, refrigeration, car service, transfer, diversion, reconsigning, heating, storage, elevation, or other special services, shall be exempt therefrom;
>
> "3. That the advance in rates be distinctly considered as an emergency measure and that such rates shall remain in effect for a limited period to be determined by the Board of Railway Commissioners."

The Quebec Board of Trade say:—

> "The demand of the railway companies of Canada to be allowed to increase their freight and passenger tariffs by 15 per cent, has been referred to the chairman of our transportation committee, Mr. Alex. Hardy, for study. In accordance with his report, with which our council concur, and on account of his long experience in such matters, and in view of the fact that the cost of coal and all operating expenses has greatly increased—temporarily we hope—we would recommend that the Railway Commission should allow an increase in freight and passenger rates of 10 per cent for one year from the date of its going into force, upon the following conditions:—
>
> "1. That the increase shall be for one year only, and that at the expiration of that time the present tariffs shall again come into force;
>
> "2. That so as to indicate its temporary nature and to avoid the necessity of making new tariffs, the railways shall be authorized for 12 months to add 10 per cent at the foot of all their freight bills and to collect 10 per cent extra on all tickets sold;

"3. We do not consider that the extra flat rate of 15 cents per ton upon coal, irrespective of distances, is equitable. The 10 per cent should apply upon this item also, instead of 15 cents per ton, but not to exceed 15 cents per ton in any case.

"4. We would recommend that no increase be allowed on wheat or other grain to Canadian seaports for export. We consider this imperative, so as to put a stop to the lamentable diversion of our western grain trade to New York and other United States seaports, which last year took away two-thirds of our western grain trade."

Mr. Fisher, who appeared for the Edmonton Board of Trade, is reported as follows:—

"The matter was discussed fully by the committee and the council of the Board and at a very largely attended meeting. This was the result of the general meeting, on June 12, and I will submit the resolution to you:—

"Resolved that while some general advance in railway tariffs may prove necessary as a temporary measure in view of the increased cost of operation, this Board had been unable to elicit from the Canadian Freight Association any information as to the relationship between the increase that has taken place in the cost of operation and the increase in revenue which would result from the proposed general increase in tolls. Consequently it is urged that such increase should be permitted only after it has been clearly shown to the satisfaction of the Board of Railway Commissioners that such increase is necessary to enable the railways to continue to afford satisfactory service to the public; and that it be clearly understood that any increase permitted is of a purely temporary character owing to abnormal conditions and not to be continued in effect after conditions have become normal."

"You will see there, sir, that the Board does not take exception to the idea of an advance in rates, if necessary."

"The CHIEF COMMISSIONER: All you want to see is that it is kept down to a fair figure."

"Mr. FISHER: Yes, just what is absolutely necessary."

Mr. Tilson, who appeared with Mr. Hutchison for the Montreal Board of Trade, read into the record the following resolution, as representing the views of that Board:—

"I beg to say that the council of this Board having requested its Transportation Bureau Committee and the several branch associations of the Board to consider and report regarding the application of the railways to the Board of Railway Commissioners for a recommendation to the Governor General in Council for the passage of an Order in Council under the War Measures Act, 1914, permitting a general advance of 15 per cent on existing tariffs covering freight and passenger tolls, including a specific advance of 15 cents per ton on coal, a joint meeting of the Transportation Bureau Committee and representatives of the Corn Exchange Association, the Wholesale Drygoods Association, the Metal and Hardware Association, the Lumber Association, the Produce Merchants Association and the Wholesale Liquor Association was held this afternoon, when the joint views were embodied in a draft resolution, which draft was considered by the council of this Board at a special meeting held this afternoon, when after full consideration of the same, it unanimously adopted it as follows for communication to your Board:—

"Resolved that the council of the Montreal Board of Trade, recognizing the need of an improved service and the need of the railway companies for financial assistance to enable them to provide the necessary

equipment and additional facilities as well as to cover the increased cost of labour, coal and supplies, will not oppose the application of the railway companies for a general advance on existing tariffs covering freight and passenger tolls, except with regard to the following conditions:—

"1. That the amount of the increase shall be such as the Board of Railway Commissioners is convinced from evidence submitted is necessary under present abnormal conditions, but that it shall not exceed 15 per cent."

"I may say, Mr. Chairman, that this was merely included in the resolution, so that it would be in the record."

"2. That such increases do not apply to terminal rates, charges and allowances or absorptions and rates and charges for demurrage, weighing, switching, car service, transfer, diversion, reconsignment, refrigeration, icing, storage, elevation, and other transit or special services.

"3. That owing to the general hardship involved by the current high prices that no advance be made as applying to coal and coke, and that consideration be given as to the wisdom of applying advances to low grade commodities such as crushed stone, sand, clay and gravel, etc., etc."

"We mean that perhaps the Board might, in taking different districts, think that in some cases on low class commodities 15 per cent would be too high, that perhaps under some conditions it might be too high to add 15 per cent on crushed stone, sand and gravel."

"4. That the advance be distinctly regarded as a measure of emergency, and therefore that any advance that may be granted shall apply for a period of one year only, when any extension of that period which might then be asked for by the railway companies could, if conditions warrant it, be considered by the Board of Railway Commissioners."

"We thought that if advance was granted by the Board there should be a fixed limit, not an indefinite limit, and that if conditions were not such that the roads could operate under the old tolls they could make another application to the Board at some future time.

"I am to add that the Council is of opinion that in the case of contracts entered into by shippers prior to the notice of application by the railway companies for an advance in their rates, in event of your Board granting any advance, consideration should be given to such contracts.

Mr. Harrington, who appeared for the Retail Coal Dealers, submitted the following resolution of his association:—

"We realize the necessity of granting to the applicants at this time a substantial increase in freight and passenger rates, so that an efficient service may be assured by them.

"We would, however, respectfully present:—

"(*a*) That inasmuch as the applicants have invoked the War Measures Act, so that an Order in Council may relieve them from the regulations prescribed by the Railway Act, that any increase which your honourable Board may in its wisdom deem necessary to the carrying on of its enterprises set forth by the applicants, must be made subject to the duration of such War Measures Act.

"(*b*) That assurances must be given by the applicants that the revenue to be derived from such increase in rates shall be extended by the applicants in the securing and contributing of adequate services, by the immediate acquisition of the necessary materials, supplies and equipment, and in the payment of the necessary wages to competent labour to maintain such equipment in the highest possible state of efficiency.

"(*c*) That both anthracite and bituminous coal be included in the percentage advance of 15 per cent, with a maximum charge of 15 cents per ton, and not

> subjected to the specific charge of 15 cents per ton, as asked for by the applicants, and I have added to the above, and subject to a further reduction by participation by Canadian lines in such increase in coal traffic as may be authorized by the United States Interstate Commerce Commission."

Mr. Sclanders, who appeared for the Saskatoon Board of Trade, stated that the shippers of Saskatoon recognized that it would be an economic fallacy of the most dangerous kind to starve our transportation companies in a country where transportation is one of our fundamental economic problems; but, at the same time, he very reasonably stated that he wanted to be sure that the increase that is demanded is reasonable.

Mr. Sclanders also pointed out that with his present information he was unable to reconcile the drastic demand of 15 per cent increase in freight and passenger rates in face of the increased net earnings of the railway companies.

Mr. Sclanders finished his argument with the following statement:—

> "Therefore, Mr. Chairman, we would be exceedingly glad if the Board of Railway Commissioners would investigate this situation, and thereafter inform us what in their judgment the railway companies ought to get. If an increase in freight rates and passenger rates is necessary in your judgment after investigation, and if that increase is necessary for the maintenance of our railways in a reasonable degree of efficiency, why, I think you will find that the West will not be behind. We are willing to bear our own share of the burden, but we do not wish to bear too much. We do not wish to have our fundamental economic handicap unnecessarily accentuated."

Mr. McDonald, who appeared for the Regina Board of Trade, said:—

> "Referring to this application and the table indicating the increase, we desire to emphasize that if the increase applied for by the Railway Freight Association is necessary in order to meet the increased charges as referred to by Mr. Hinton, this Board has no objection to the raise. We are of opinion that under existing conditions, however, the increase is not justifiable, inasmuch as there are few organizations that are in a position to profit in consequence of the war to the extent of the transportation companies. We believe that that should be borne in mind. We believe, too, that that is borne out by the weekly and monthly statements of the business by the various railway companies."
>
> "The position the Board desires to take is that the Railway Commission provide itself with figures obtained from absolute audits of receipts and expenditures of the various railway companies, and if in the opinion of the Commission the increase is necessary, then we concur."
>
> "The Board further takes the position that whatever increase, if any, the Board may decide upon, it should be based upon conditions prevailing under the freight schedules as of the 25th April, 1917.
>
> "Of course it is to be understood as a war measure."
>
> "The CHIEF COMMISSIONER: Purely temporary?"
>
> "Mr. MCDONALD: To determine at the expiration of the war. That is about all we care to say with respect to it."

Mr. Starkey, who appeared for the Nelson Board of Trade, urged that if the Commission decided that the railway companies were entitled to an advance, it should not be put upon a 15 per cent basis; that the effect of a flat increase would be to put Nelson at a still greater disadvantage in its competition with coast cities. Mr. Walsh representing the Canadian Manufacturers Association, at the hearing at Winnipeg, read into the record the following resolution:—

> "The Canadian Manufacturers' Association will not oppose such increase in rates, not exceeding 15 per cent, as the Board of Railway Commissioners may

consider proper, with the exception of tariffs covering coal, coke, milling-in-transit and similar services, and after giving proper consideration to such articles as are of little value and carry very heavy freight charges, like crushed stone, sand and gravel, on the following conditions:—

"1. That it be considered strictly as a war measure.

"2. That the Board can satisfy themselves that this increase will enable the railways to provide an adequate service throughout.

"3. That it shall remain in force for a limited period, to be determined by the Board."

Mr. Ingram representing the Canadian Manufacturers' Association of Western Canada, concurred in this resolution and dwelt upon the paramount importance of equipment and service.

Mr. Benson, speaking for the Winnipeg Implement Association, said:—

"We feel that we can safely leave this in the hands of the Board. There is no question but what the prices of everything have been advanced, and this is, according to our interpretation, a war measure. We feel that the request of the railway companies should be granted, provided that your Board feels it is necessary for them to have 15 per cent. But we are satisfied to leave the matter of percentage of increase in your hands."

The general effect, of the above is a recognition of a change in conditions brought about by the war, of increased costs, and the necessity of some action. Other public bodies opposed the application "in toto" and objected to any relief being accorded to the railways. The Board of Trade of Duncan, B.C., passed the following resolution:—

"Resolved that this Board of Trade protest against any increase in freight rates west of the Great Lakes, inasmuch as the last year was the record of any year for Canadian railways, and the present high freights form a serious bar to the economic development of the West."

The Revelstoke Board of Trade expressed themselves as opposed to any advance being allowed, either directly or indirectly, claiming that the statements of earnings do not warrant any increases whatever.

The Vancouver Board of Trade was represented at the sittings, by Mr. Shalleross, who submitted, among other matters, the following resolution:—

"That the Committee is opposed to the application of the railway companies for an increase of 15 per cent on freight and passenger rates.

"In support of their protest the committee submits the following, and urges your earnest consideration thereof:—

"The committee assumes that the main justification for an application to increase rates at this time would be because of a reduction in the net revenues or an increase in the operating ratio sufficient to gravely threaten the financial standing of the railways.

"From the Government blue books, the committee obtained the following figures:—

	Gross Earnings.	Net Earnings.	Operating Ratio.
1913	[illegible]	$ 74,691,012	70.9
1914	243,083,539	[illegible]	73.6
1915	[illegible]	[illegible]	73.9
1916	261,888,657	81,346,394	68.93
	[illegible]	[illegible]	[illegible]
Average per annum	[illegible]	$ 68,064,414	71.83
1916	[illegible]	81,346,394	68.93
	[illegible]	[illegible]	2.90

*Increase for 1916 over average. Increase. Decrease for 1916 over average.

"From the foregoing it will be seen that for the four years 1913 to 1916, inclusive, the gross and net earnings show a marked increase, whilst the operating ratio shows a decrease of 2·90 per cent in 1916 compared with the four years' average.

"In the foregoing circumstances the committee had hopes that the railway companies would consider a reduction both in the passenger and freight rates.

"To a very substantial extent the freight charged the people of Vancouver by the railways emanates from eastern seaports or adjacent points. An increase of 15 per cent from these points would probably not be urged by the railway companies if the people of Vancouver were permitted to make use of the Panama Canal. As the Board is no doubt aware, this waterway can only be used by the residents of the Canadian Pacific coast with the consent of the Dominion Government, by which we mean the appointment of a Canadian customs officer at New York. That this appointment be made, has been requested by the Board of Trade on many occasions, and as many times denied, by the Dominion Government.

"If an increase in the freight rates can be justified by the railways then we urge that this increase should not be made to apply in the local rates in British Columbia. The transportation committee would remind the Board that in its judgment in the Western rate case the Board applied a standard scale to the Pacific division, approximately 30 per cent higher than that applied on the Prairie.

"In these circumstances the committee feels that this province is already carrying more than its share of the load."

Mr. Shallcross also objected to any increase whatever in passenger rates, basing his objection on the ground that passenger rates in British Columbia were four cents a mile as compared with three cents a mile east of Calgary.

Specific objections to the increase were also taken at Vancouver on behalf of the lumber trade. Among other matters it was urged that if any advance should be allowed on a percentage basis, present differential existing between the different producing centres would be upset; but that if an increase had to be given the increase should be a flat rather than a percentage increase, the effect of which would be to exaggerate existing differentials. It was strongly urged for the Coast Mills that their present relative position with other producing centres be not disturbed. Great stress was also laid on the fact that much lumber was ordered in advance and accepted on the basis of the old rate, and that a reasonable time should be allowed the trade within which to complete existing contracts so accepted.

Mr. Adolph took a similar ground on behalf of the Interior Mills of British Columbia, arguing in favour of a flat advance, and that slabs and wood refuse used for fuel ought to be treated in the same manner as coal.

Mr. Campbell, on behalf of the Fruit Growers, protested strongly against advances in the Canadian fruit rate on account of no similar advances in American rates.

At the Toronto sittings special objections were raised by dealers in crushed stone and sewer pipes, and by canners, fruit growers, and livestock interests. Mr. White, who appeared for the livestock interests relying on the results obtained from Canadian Pacific operation as an answer to the application.

The application was also opposed at Toronto by the Board of Trade of Kitchener and the Kitchener Manufacturers' Association. The position taken by the Association, along with the executive of the Board of Trade, was that assistance should come from the Government in the form of a loan, or something of that nature, rather than

a tax on the shipper. Mr. Moody, who appeared on behalf of the Association, stated that in his belief some of the railway companies required assistance, but insisted that it should not be given through an advance in rates. The following resolution was put on the record:—

> "That in view of the reports of the Commission appointed by the Dominion Government to investigate the railway situation in Canada, and the necessity pointed out in both the minority and the majority reports, for the Government of Canada to take over the Canadian Northern Railway, the Grand Trunk Pacific Railway and the Grand Trunk Railway:—
>
> "Be it resolved that this Association go on record as against any increase in freight or passenger rates as asked for by the railways of Canada, at least until the question of Government ownership of railways is finally decided.
>
> "Should, however, the Railway Commissioners of Canada decide that an increase in freight and passenger rates is required to provide equipment for the railways of Canada in order that proper railway service may be given to the Canadian public, and if possible a recurrence of conditions as they existed in the winter of 1916-1917 may be avoided.
>
> "That the proposed increase in freight and passenger rates of 15 per cent, or whatever percentage of increase in these rates may be required in the judgment of the Railway Commissioners of Canada, be levied in the form of a Government tax, to be placed at the disposal of the Railway Commissioners of Canada, to provide a reserve of railway equipment, to be leased by the Railway Commissioners to the railways requiring additional equipment."

Mr. Moody also appeared at the sittings in Montreal, when he stated:—

> "After making my report to the Kitchener Manufacturers' Association, Mr. Chairman, they asked me to return and explain their opposition to the manner in which this grant is being asked for by the railways.
>
> "They do not wish to be misunderstood in the fact that they realize that the railways must have assistance, but it is the manner in which this money is to be derived; that is where they get their objection.
>
> "They claim that the railways are a national interest, and that they must be maintained. They also feel that while the railways are of national benefit, the grant or loan or assistance should come from the Dominion of Canada at large, and should be supplied out of the general funds. That would eliminate a whole lot of difficulties and details. The Government would be simply assisting the railways to the extent they are asking, and those that do not require it would not need to be assisted.
>
> "I made my report to the executive as complete as any one could be expected to do, from the applications that were set forth at Toronto.
>
> "What I understand is that there are two of these railways badly in need of assistance, and that it should come immediately.
>
> "If these two railways could be assisted out of the general funds, we as manufacturers would not be saddled with what you might call a doubled up
>
> ".....
>
> ".....The only thing we are looking for is that these railways will be nationalized probably before the time expires during which these people are asking for this advance rate."

Mr. Waldron appeared at the Toronto sittings on behalf of the United Farmers of Ontario, when he stated that it was perfectly clear that where railway freight rates are regulated rates must be permitted to rise according as commodities and labour rise in value. He stated that his clients regarded with great apprehension the

presentation of the demand in the manner in which it was presented that day. In short, Mr. Waldron challenged the right of the Board to make any recommendation whatever under the War Measures Act, and that the present application was not such as was contemplated by Parliament when passing that statute. He also claimed that the additional rates would add the sum of $39,000,000 a year to the freight charges collected by the railways, and that probably of that sum more than eighteen and one-half million dollars would accrue to the benefit of the Canadian Pacific Railway, $5,321,000 to the Canadian Northern, and $5,873,256 to the Grand Trunk Railway. with the result that, in his view, one system requiring no assistance would, under the present application, receive $18,500,000 in order that justice might be done the Canadian Northern and the Grand Trunk.

On being asked by the Assistant Chief Commissioner how he would work it out; whether he would allow the increase to the Grand Trunk and advise the people that they should ship by the road which has the higher rates Mr. Waldron answered:—

> "I do not profess to offer a solution of that great difficulty, Mr. Chairman. One solution is offered by Sir Henry Drayton and Mr. Acworth, another by Mr. Smith.
>
> "What you are asked to do here is to proceed and solve it in another way which I understand these gentlemen refuse to accept. That is one of the obstacles and one of the objections which I make to this application."

At Winnipeg, Mr. Martin, who appeared for the Board of Trade, objected entirely to any increase at all. He dwelt on the bad effect of paralleling, the fact that in many places railways were altogether too close, and that in other sections there were great distances without lines. He argued that, as a result the revenues of the companies were greatly affected, pointing out that with lines constructed only five miles apart or less, as is the case in a good many places, of necessity there is not the same traffic offering as would have been the case had the distance between them been fifteen or twenty miles. Mr. Martin also dwelt upon the large earnings of the Canadian Pacific. His first suggestion as to adequately dealing with the question was the adoption of the majority report of the Royal Commission.

Mr. Mylius, who objected, took the position that there was no justification for any increase, and as a remedy believed that it would pay the Government to take over the Canadian Northern and the Grand Trunk Pacific and tear up many hundreds of miles of the Grand Trunk Pacific rails, and put these rails down in cross-sections to give lots of feeder for the two then existing lines, the Canadian Northern and the Canadian Pacific. He also made a special plea for the western shipper.

Mr. Chevrier, who appeared for the Retail Merchants' Association, took the stand that the Government ought to loan the necessary funds to the railways and objected entirely to any increase in rates.

Mr. McKenzie, who appeared with Mr. Henders for the Grain Growers' Association of Manitoba, was alarmed at the depopulation of the land, which he thought an increase in the rates would add to. He made an interesting study of Canadian Pacific figures and successes, dwelt on the hardship to the farmers that any increase would entail, and thought that the Government should now help the Canadian Northern and the Grand Trunk Railway Companies, rather than grant any increase.

On the question of the position of the Canadian Pacific Railway, Mr. McKenzie argued that the company's general balance sheet of December 31, 1916, showed a total liability of but $602,297,912.75. In his analysis he transfers reserves premiums on ordinary stock sold, different reserves and appropriations, the net proceeds of lands and townsites, the surplus revenue from operation, and surplus in other assets, from the liability to the asset side of the balance sheet. It is, of course, obvious that this transfer is quite correct in at least some of these items.

With these transfers, Mr. McKenzie increased the assets shown in the balance sheet and amounting to $956,768,543.90, by the sum of $354,488,631.15, making a grand total of $1,371,257,175.05. In like manner, of course, these deductions from liability, were used by Mr. McKenzie in reducing the total liability shown by the company's balance sheet to the amount above stated.

No answer is made with reference to the large increase of cost and the position of the other lines; but Mr. McKenzie's position may shortly be stated as follows: Mere increases in cost, never mind how great, cannot be looked upon as conclusive or necessitating a rate increase. The increase in gross must also be considered. If the increases in gross revenue are sufficient to absorb the increased cost, so as to still afford the company a reasonable return on its capital and for the service rendered, the increases having been taken up by the increased business the public afforded the company, no increases whatever should be made; that an increased rate, to be effective, must be common to all companies; and that the effect of the increase asked would be to give the Canadian Pacific Railway Company some $18,000,000 of added revenue, which it does not require, while the other applicants, that need assistance, would get a little better than $5,000,000 a piece.

Mr. Pitblado appeared for the Government of the province. He opposed the application with regard to the financial position of the Canadian Pacific, and endorsed Mr. McKenzie's argument in this connection.

Mr. Pitblado challenged the jurisdiction of the Board to make a recommendation to the Governor in Council under the War Measures Act. He said:—

> "But it is beside your powers for the railway companies to ask you to recommend to the Governor in Council what they should do under the War Measures Act, and I submit that the responsibility and power and control is in the Governor in Council, and that the railway companies have no right to ask you to do anything."

Mr. Pitblado also submitted that the railways in their application were attempting to over-ride agreements. The first agreement referred to was the Crow's Nest Pass agreement made by the Canadian Pacific with the Dominion government. The agreement is printed in the Dominion Acts 60-61 Victoria, Chapter 5. This agreement makes provisions that in consideration of $11,000 a mile paid to the Canadian Pacific Railway Company, not exceeding in the whole $3,637,000, the rates should be reduced on a large number of commodities.

The other agreement referred to by Mr. Pitblado is known as the Canadian Northern Railway's agreement with the Manitoba Government, of 1901, and printed in chapter 39 of the Manitoba Statutes of that year. Under that agreement, in consideration of guaranteeing the railway company's bonds and giving them a lease of the Northern Pacific and Manitoba road, a reduced rate schedule was agreed to by the Canadian Northern.

No analysis was prepared either by the railway companies or by the contestants, as showing how the present application would conflict with these agreements.

It is only fair to say that Mr. Pitblado certainly cannot be criticised in this regard, as he did not have sufficient time at his disposal to prepare such an analysis. This the Board has been obliged to do, and we find that there is no doubt that these agreements are material and have to be considered.

Mr. Phippen, who appeared for the Canadian Northern, in answering Mr. McKenzie, made the statement that if his company had been assisted in the same way that the Canadian Pacific had been assisted, it would require no increase in rates whatever; but insisted that, if the railway situation was taken care of by Government aid, as suggested, that in the place of loans to the amount necessary, the railways

ought to get cash gifts from the Government, as beyond all question their operation was costing them just so much more, and that they were unable to make any proper or satisfactory return on their activities.

Under such circumstances, under Mr. Phippen's submissions the mere advance of moneys to meet the necessities of the companies would simply mean a change of creditors and work no real financial improvement.

The Canadian Pacific Railway Company was not represented at this hearing. They asked, however, for the opportunity to put in a written reply. This reply was filed with the Board on August 17, 1917, a copy being furnished to Mr. Pitblado. The material submissions made on behalf of the company are as follows:—

"1. Extent of aid to the Canadian Pacific."

"The extent of the aid given to the Canadian Pacific has been stated in a very misleading way both in the Drayton-Acworth report and by the opposants to this application, including counsel for the Canadian Northern Railway Company.

"The Canadian Pacific received as a term of its contract in consideration of work done and obligations to be performed—perpetual obligations of enormous magnitude—$25,000,000 in cash, certain portions of railway constructed by the Government, and 25,000,000 acres of land. The real value of these considerations must be ascertained as of the time of the contract or the completion of the works, not at a period over thirty years later. The aid is what was given, not what the company were able, largely through their own efforts, to make it worth to it. The land in question was valued at ten cents an acre in 1881. The minimum sale price was fixed by the Government in 1884 at $1.25 per acre; a large block of land was offered by the company to the Government in 1885 for $2 an acre, and in 1886 the Government accepted in full of its claim against the company land sufficient to cover the amount due at the rate of $1.50 per acre. The so-called subsidy, which was nothing more nor less than the consideration for the undertaking of these huge obligations imposed upon the company by the Crown, was worth at the time of the contract, $2,500,000; in 1884, $31,250,000; in 1886, $37,500,000. It would be almost as logical and correct to say that the value of the raw product to the producer is identical with the value of the finished article to the consumer as to contend that the amount received by the company from land sales in the last thirty odd years plus the present value of the unsold lands as shown by the company's books represents what was given by the Crown to the company in 1881.

"Another obviously inaccurate fallacy in the figures employed by counsel for the province and his associates is that no allowance is made for the enormous and expensive organization which the company was compelled to establish and maintain to sell and colonize its lands. It is inferentially suggested that all the company did was to wait for the purchasers and that no expense to it was involved. No regard is had for the sums expended by the company in exploiting Canada and inducing settlers, all of which would require to be deducted from the proceeds of lands sold and the value of lands remaining unsold.

"2. The company's reserves.

"What the company has accumulated in reserves is not an element in determining this application. All its earnings were made from the sale of transportation at legal rates established and approved by the Board and if, because of the volume of business transacted and its efficiency in conducting

its operations, a surplus has been built up, no argument can, it is submitted, be based upon that fact, especially when all that is asked is that additional earnings, less than sufficient to meet the additional expenditures may be secured. If the value of the elements necessary to produce the commodities to be sold has increased, it could fairly be asked that the sale price of the commodity be increased proportionately.

"3. The company's earnings have not been excessive.

"The actual cash invested in the Canadian Pacific Railway (exclusive of the cost incurred by the Government in constructing portions built by it) was on June 30, 1916, $789,115,096, the net earnings from railway operations were $48,839,101 and the percentage of earnings on cash invested was 6·19. For the years ending June, 1914, and 1915, the percentages were 5·39 and 4·23 respectively.

"In other words the company has not always earned bare interest on the money put into the railway and has never earned enough to be accused of excessive returns.

"The value of the company's railway enterprise is in excess of $1,000,000,000 and its shareholders have received dividends from railway operations and special income of 10 per cent per annum or $26,000,000. The return to the company shareholders from the use of its facilities by the public is less than 2·6 per cent of the value of the company's undertaking. Can it be suggested that this is an inordinate or even an adequate return?

"4. Additional expenses.

"The company closed the year ending 30th June, 1917, with gross earnings from freight and passenger business of $140,759,986 and net earnings of $48,157,758.

"The increased expenditure for wages, fuel, etc., for 1917-18 over 1915 as using the same requirements as 1915, though they will be 20 per cent greater, will be $19,376.922. These figures are larger than those contained in the schedule attached to the application made in April and are the ascertained costs due to the increase in the prices of material and labour as follows:—

General purchases..	$4,[illegible] or [illegible]
Fuel purchases..	[illegible] or [illegible]
[illegible]	[illegible] or [illegible]
[illegible]	[illegible] or [illegible]
[illegible]	6,650,000 or 18·0%
Total increase	$19,376,922 or 35·8

"The granting of the eight hour day to practically all employees involves an enormous and permanent increase in cost of labour.

"The increases applied for will give increased revenues based on freight and passenger business of the year of 30th June, 1917, of approximately $17,500,000. Costs and wages are still climbing rapidly and the company only asks for sufficient additional revenues to partially offset the increased costs as now ascertained.

"5. Where will the burden fall.

"Mr. Pitblado in his address to the Board assumed that any increase of rate would fall in the main upon the shippers in Western Canada. Unless the rates are not now relatively fair (and the Board has decided that they are)

the earnings in one part of the country, as compared with another, are not a factor. The facts are not, however, as Mr. Pitblado assumes. The increase which is, of course, calculated on the gross operating revenues will fall most heavily relatively on Eastern Canada.

"The gross operating revenues for the year ending June 30, 1917, were as follows:—

Operating revenues on lines east	$59,459,718
" " " west	81,300,267
Mileage—	
Lines east	4,827
" west	8,125
Gross revenue per mile of line in east	12,313
" " " lines west	9,957

"6. Necessity for Increases.

"The position of the Canadian Pacific Railway is unique. It cannot and does not contend that the increase is necessary for it to earn its operating expenses and fixed charges, as do the Canadian Northern and Grand Trunk. Its financing has been such that its fixed charges form a smaller proportion of its obligations than with other companies. It pays 7 per cent per annum divided to its shareholders from operating revenues. It is as essential to the credit of the company and to the credit of Canada that it earns its dividends and reasonable surpluses as it is that the Canadian Northern and the Grand Trunk should maintain their fixed charges. It cannot be said that it would be a greater calamity for Canada if the Canadian Northern Railway and the Grand Trunk Railway should go into the hands of a Receiver than it would be if the Canadian Pacific's financial position should be weakened. Is it not a fact that the strength and ability and willingness to earn, raise and spend large sums of money in improved facilities and equipment has had a vital and beneficial effect on the development of Canada and has contributed more than any other agency to the transportation necessities of the whole country. Can this condition be met and continued otherwise than by the financial strength and earnings sufficiently large to ensure a reasonable margin of safety to the investor and ample surplus for working capital. The demands on the company have been extraordinary and will no doubt continue to be. In no other way can they be met and it is submitted with respect that no other condition should be permitted to arise."

"7. Increase on future earnings.

"It must not be forgotten that the application has only to do with gross earnings to be secured in the future during the time the increase granted is in effect. It is obvious to all those familiar with the railway situation that the earnings cannot be maintained at their present high level and that the diminishing of the heavy shipments of munitions and general war supplies and of carriage of soldiers will have a pronounced effect on the railway companies' earnings during the succeeding year.

"There is, on the other hand, little likelihood of decreases in the cost of materials sufficient to offset decreased revenue and, in these circumstances, there is practically no ground for the hope that the increase, if allowed, will amount to anything like the figures which have been estimated. As evidence that this is so, it may be of interest to note that the gross earnings of the Canadian Pacific for the first week of August are over $400,000 short of the earnings for the same week in 1916."

I, in the first instance, deal with the objection taken by both Mr. Pitblado and Mr. Waldron that it is not within the jurisdiction of the Board to advise the Governor in Council as to what action the Government ought to take under the War Measures Act.

Speaking generally, the jurisdiction of the Board is that established by the Railway Act. The War Measures Act certainly does not confer any jurisdiction on the Board one way or the other. No request has been made to the Board by the Governor in Council to report upon the subject. Under the War Measures Act,—

> "The Governor in Council shall have power to do and authorize such acts and things, and to make from time to time such orders and regulations, as he may by reason of the existence of real or apprehended war, invasion or insurrection deem necessary or advisable for the security, defence, peace, order and welfare of Canada; and for greater certainty, but not so as to restrict the generality of the foregoing terms, it is hereby declared that the powers of the Governor in Council shall extend to all matters coming within the classes of subjects hereinafter enumerated, that is to say:—
>
> "(*d*) transportation by land, air, or water and the control of the transport of persons and things."

5 Geo. V, Chap. 2, Sec. 6.

As to the great necessity of properly maintaining transportation during a time of war, there is, of course, no room for argument. My own personal view is that there is also room for improvement in the companies' present facilities.

The application, however, is an application entirely in case of the railway companies' finances, and not primarily, if at all, for the purpose of improving facilities and service. This was very frankly admitted by Mr. Hanna, one of the chief witnesses called by the Canadian Northern Railway Company.

In my view, the objection is well taken, and the application is one which ought to be considered by the Board as an application for increased rates under the provisions of the Railway Act.

I now deal with Mr. Pitblado's argument as the Crow's Nest Pass Agreement and Statute; and also the Manitoba Agreement.

Under the provisions of 60-61 Victoria, Chapter 5, the Governor in Council was authorized to grant to the Canadian Pacific Railway Company a subsidy towards the construction of the railway from Lethbridge through the Crow's Nest Pass to Nelson, to the extent of $11,000 per mile, until the sum of $3,360,000 in all had been advanced.

The company has accepted the subsidy; the line has been completed; and the terms of the Statute have been agreed to.

The Act contains the following provisions:—

> "(*d*) That a reduction shall be made in the general rates and tolls of the company as now charged, or as contained in its present freight tariff, whichever rates are now the lowest, for carloads or otherwise, upon the classes of merchandise hereinafter mentioned, westbound, from and including Fort William and all point east of Fort William on the company's railway to all points west of Fort William on the company's main line or on any line of railway throughout Canada owned or leased by or operated on account of the company, whether the shipment is by all rail line or lake and rail, such reduction to be to the extent of the following percentages respectively, namely:—
>
> "Upon all green and fresh fruits, 33⅓ per cent;
>
> "Coal oil, 20 per cent;
>
> "Cordage and binder twine, 10 per cent;

"Agricultural implements of all kinds, set up or in parts, 10 per cent;
"Iron, including bar, band, Canada galvanized sheet, pipe, pipe fittings, plates, nails, spikes and horseshoes, 10 per cent;
"All kinds of wire, 10 per cent;
"Window glass, 10 per cent;
"Paper for building and roofing purposes, 10 per cent;
"Roofing felt, box and packing, 10 per cent;
"Paints of all kinds and oils, 10 per cent;
"Live stock, 10 per cent;
"Woodenware, 10 per cent;
"Household furniture, 10 per cent.

"And that no higher rates than such reduced rates or tolls shall be hereafter charged by the company upon any such merchandise carried by the company between the points aforesaid; such reductions to take effect on or before the first day of January, one thousand eight hundred and ninety-eight;

"(*e*) That there shall be a reduction in the company's present rates and tolls on grain and flour from all points on its main line, branches, or connections, west of Fort William to Fort William and Port Arthur and all points east, of three cents per one hundred pounds, to take effect in the following manner: One and one-half cents per one hundred pounds on or before the first day of September, one thousand eight hundred and ninety-eight, and an additional one and one-half cents per one hundred pounds on or before the first day of September, one thousand eight hundred and ninety-nine; and that no higher rates than such reduced rates or tolls shall be charged after the dates mentioned on such merchandise from the points aforesaid."

An examination of the tariff situation on apples to a few typical points applicable at the time this Act took effect as reduced by the Act and the agreement, and the present rates established the following rates:—

To—	Contract. Cents.	Present. Cents.
Winnipeg	55	53
Regina	83	83
Medicine Hat	97	96
Lethbridge	100	100
Edmonton	123½	104
Macleod	114½	104

It will be observed that the present rates to Regina and Lethbridge are merely the rates reserved by the contract, and that in only two instances, the movements to Edmonton and MacLeod, could any substantial advance be made, having regard to the terms of the contract.

This situation is not peculiar to the apple traffic. The rates applicable to the barrelled coal oil movement in carlots for Fort William are as follows:—

To—	Contract. Cents.	Present. Cents.	With 15% Increase. Cents.
Winnipeg	45½	33	39
Brandon	53	49	56
Regina	71	65	75
Swift Current	79	76	87½
Medicine Hat	88	84	96½
Calgary	96	95	109½
Lethbridge	92	90	103½
Saskatoon	93	74	85
Edmonton	120	95	109½

It will be noted that on only the first and last two items of the table is the 15 per cent advance possible. An advance to the other points, allowing the rates to go

back to the contract basis, would fall very far short of the 15 per cent, which could only as above stated be allowed under the contract in the cases of Winnipeg, Saskatoon and Edmonton.

A most important movement is that of agricultural implements in carlots from Toronto. An analysis discloses the following situation:—

To—	Contract. Cents.	Present. Cents.	With 15% Increase. Cents.
Winnipeg	68½	63	72½
Brandon	80	73	84
Regina	97	87	100
Swift Current	106½	96	110½
Calgary	125½	116	133½
Saskatoon	116½	95	109½
Edmonton	148	116	133½
Lethbridge	121	110	126½

While the present schedule in each instance is below the contract price, the result again shows that in most cases no such increase as that asked could be made.

There is no doubt that there is authority for the proposition that the passage of an Act giving a new Commission, by it formed, full jurisdiction to fix just and reasonable freight and passenger rates and fares, automatically repealed previous maximum rate laws—the basis supporting such proposition, of course, being that the object of the legislature is plainly declared, namely, the fixing of just and reasonable freight and passenger rates, having proper regard, not only to the question of the reasonableness and fairness of the rate itself, but also to the principle of equality as between different districts and shippers, which would be defeated by the continuance of Special Acts giving special rights to any particular district of the country, or creating rates which by change of circumstances and conditions could not be described as just or reasonable.

I am of the opinion, however, that this principle cannot be applied in the present instance.

Section 3 of the Railway Act specifically provides that, unless expressly provided in the Act to the contrary, wherever the provisions of the Railway Act, and of any Special Act passed by the Parliament of Canada, relate to the same subject matter, the provisions of the Special Act shall, in so far as it is necessary to give effect to such Special Act, be taken to over-ride the provisions of the Railway Act.

A specific reduction worked by the Special Act, therefore, limits the general jurisdiction of the Board, having regard to rates. In my view, no matter how great the shortage may be in railway revenue, the Board cannot advance these Canadian Pacific rates, beyond the reduction secured under the Special Act.

Owing to the manner in which our railways are constructed and the territories occupied by them, no useful object whatever would be served by increasing the rates on other lines, as it would simply mean that they would be carrying no business at the higher rate when the lower was available to the public on the Canadian Pacific rails.

The situation in connection with the Manitoba Agreement is entirely different. There, the Act is of a provincial legislature, which does not bind the Board.

In the first instance, the Canadian Northern is a Dominion corporation. In the second instance, assuming that any of the component railways, which are now combined in the Canadian Northern system, were provincial undertakings, the rule obtaining as to Special Acts passed by the Dominion Parliament, is entirely reversed in the case of all Acts of Provincial Legislatures.

Section 6 of the Railway Act provides that where any railway, the construction or operation of which is authorized by a Special Act passed by the legislature of any province, is declared by the Parliament of Canada to be a work for the general advantage of Canada, the Railway Act shall apply to such railway and to the company

constructing or operating the same, to the exclusion of such of the provisions of the Special Act as are inconsistent with the Railway Act.

The situation was recognized by the province and the railway company, who made a joint application to Parliament for an authorizing and confirming Statute by the Dominion.

Their petition was acted upon; and, in 1901, Statute 1, Edward VII, Chapter 53, was enacted by the Parliament of Canada. Section 3 in part reads:—

> "3. Nothing in this Act nor in the indentures contained in the schedules hereto, or done in pursuance of this Act or of the said indentures shall,—
>
> (*a*) divest or limit, temporarily or otherwise, the rights or powers (under existing or future legislation of the Parliament of Canada) of the Governor in Council or of the Railway Committee of the Privy Council, or of any commission or other authority, respecting any matter or thing, obligation or duty."

The result is that, not only was the jurisdiction of Parliament expressely reserved, but the parties accepted the private or special Act which specifically reserved it.

The effect of the argument, apart altogether from statutory limitations of the Board, must be considered.

The late Chief Commissioner Mabee in his judgment in the Crow's Nest Pass Coal Company *vs.* Canadian Pacific Railway Company, 8 C.R.C. 33, at page 41, says:—

> "The Railway Act requires that under substantially similar conditions the tolls charged shall be equal to all persons, and at the same rate, whether by weight, mileage or otherwise, and any reduction or advance either directly or indirectly is expressely prohibited. No undue or unreasonable preference or advantage can be permitted to any person or company. The object of the legislation is to place every one upon terms of absolute equality, and if agreements were permitted to be entered into for reduction in tolls or for other preferential treatment, the door would be opened wide for the defeat of the Act, and the Board would be called upon to struggle with all sorts of conditions, opinions, and complications in the determination of such cases."
>
> "It will not be understood that I am expressing the opinion that such was the object of the present agreement, the conditions existing when the same was entered into were such that the contrary opinion might be arrived at."

The judgment of the Assistant Chief Commissioner in Regina Board of Trade *vs.* Canadian Pacific and Canadian Northern Railway Companies, 11 C.R.C. 380 at page 391, reads:—

> "It could not surely have been the intention of Parliament in passing section 315 of the Railway Act to permit railway companies to create different circumstances and conditions by entering into a contract with some one and so defeat the intentions of the section. The 'circumstances and conditions' which if not substantially similar may justify different treatment to different points, I think must be traffic circumstances or traffic conditions; not circumstances and conditions which may be artificially created by contract."

When the Regina Rate Case was decided railway revenues were buoyant and expenses normal. The Canadian Northern Manitoba Agreement was there considered. The application of the Regina Board of Trade was based on discrimination. To meet that issue, the Railway Companies relied on the agreement. The Assistant Chief Commissioner held that discrimination could not be excused under any agreement, and ordered the removal of discrimination by the extension of the Manitoba basis to adjoining Prairie territory.

An agreement, however, of course, ought not to be lightly regarded by the Board. In cases where conditions are similar rate agreements afford excellent evidence of what the railway considers a fair rate. Apart from a change in conditions, an agreement which did not involve discrimination might well be looked upon as conclusive, unless it could be shown that traffic could not continue to be carried under it, and that in the public interest a higher rate which would result in proper public service ought to be ordered. The burden of Canadian Northern obligations which under the agreement were guaranteed by Manitoba and which amounted to a sum exceeding $25,000,000 have been assumed by the country as a whole.

The operating and traffic conditions maintaing in Manitoba are very similar to these obtaining in Saskatchewan and Alberta. Their similarity was recognized in the Regina Rate Case, and the principle was carried to its legitimate conclusion under the Western Rates Case, with the result that the three provinces, from the effective date of the latter case, have had a tariff basis of similar application to each province and without discrimination.

To now give effect to the Canadian Northern Manitoba agreement and confine its operation to Manitoba, would again restore the discrimination which had been found to exist as against Saskatchewan and Alberta.

As a result, in my opinion, the Manitoba agreement does not as a matter of law conclude the issue. On the other hand a very strong case must of necessity be made out before rates are permitted higher than those reserved by the agreement.

Although admitting that the cost of railway operation is greatly in excess of that obtaining when existing tariffs became effective, submissions are made that nevertheless this application should be dismissed; but that the necessary relief should be afforded for the necessities of the railways by direct Government financial assistance, either by way of loans or absolute gifts. It again has been urged that, instead of increasing rates, the necessitous railways should be taken over by the country and the report of the Royal Commission to inquire into railways adopted.

Again, it is also urged that, as the country is now acquiring the Canadian Northern and has advanced a further sum of $7,500,000 to the Grand Trunk Pacific Railway Company in ease of the financial obligation of that company and its promoter and guarantor, the Grand Trunk Railway Company, no further relief ought now to be afforded any of these companies by a rate advance.

It is, of course, quite true that the country will acquire the Canadian Northern, and also quite true that the advance made to the Grand Trunk Pacific is much in ease of the necessities, not only of that company, but also of the parent company, the Grand Trunk. The rights of the companies under the Railway Act as well as the duty of the Board, are not affected by these considerations.

The principle relied on by Mr. Pitblado and Mr. Waldon in their objections to the Board taking action under "The War Measures Act" is applicable.

The whole tariff situation and railway subject is surrounded with much difficulty, but some things are at least clear. Among them, it is clearly the duty of the Board to allow fair and just rates to carriers for the service they perfom. It is also clear that the Board can neither order nor enforce rates which are unremmunerative to the carriers without infringing the principle of the Railway Act by denying carriers a fair and just rate. No enforced unremunerative rate can be said to be just to the carriers.

The question is one directly affecting shippers and consignees on the one hand, and carriers on the other; but, in arriving at a solution of what a fair rate for the transportation of coal by the Grand Trunk front the frontier to Toronto would be, the fact that the country had relieved the Grand Trunk of a present liability by making a cash advance to the Grand Trunk Pacific, could hardly be a consideration or a reason why a rate otherwise fair and just ought not to be adopted.

It is equally clear that any losses the Grand Trunk may have made in the Grand Trunk Pacific can afford no ground for increasing the rate, which, apart from such consideration, was fair and reasonable.

There is no reason why the business of the Canadian Northern should be conducted at a loss, simply because the country owns it. Under the Railway Act, the Board certainly cannot deny the people as a whole a rate which would be fair to individuals when owning the transportation system. It appears that a national railway, just as much as any other railway, ought to be operated so as to cover the cost. The interest cost on the Canadian Northern securities certainly cannot be looked upon as negligible and a matter of no moment to the country.

Whether there be room for issue on this score or not, at anw rate under the Railway Act the Board cannot consider rates on the Canadian Northern on a different basis to those on other roads, simply because the country will in future own the stock.

In like manner, it is not for the Board to determine whether any set of railways ought to be consolidated or not, even if, in the opinion of the Board, such a consolidation might justify a lower rate schedule. The Board has no legislative functions; but, on the other hand, it is a statutory body with a statutory jurisdiction. The incorporation of railway companies and the determination of their routes—the question of private or public ownership of railways, are matters entirely for Parliament.

The policy recommended by the Commission of Inquiry can neither be adopted nor rejected by the Board. It is a matter entirely without our jurisdiction and cannot be considered in this application.

Apart altogether from railway necessities, objections are made to any raise on the ground that the general business and financial condition of the country is such that any added rates would create a burden entirely undue, if not a costly burden on the people.

This objection, while not confined to Winnipeg, was taken the most strongly by Mr. McKenzie at that point, who specially referred to land depopulation and the lack of real prosperity.

Undoubtedly the higher the rate the greater the cost to the country; but, it would appear, that the country as a whole could much better afford to pay increased rates than run the risk of transportation failure or embarrassment.

The automobile industry is a pretty fair index of prosperity. The Public Service Monthly, published by the Department of Agriculture of Saskatchewan, in its issue of August last says:—

> "The records of the Department of the Provincial Secretary go to show that the motor business of the Province of Saskatchewan is developing by leaps and bounds. A large increase in the number of cars licensed was foretold in the Public Service Monthly some time ago, but even those who were in the best position to know never anticipated such a phenomenal rate of increase as has been maintained during the first six months of 1917. At the end of June the number of licenses was 26,640, as compared with 13,039 for the same period in 1916, or an increase of more than 100 per cent. The figures for July are not yet complete, but the highest number at the time of writing is 28,510, and the same relative rate of increase over 1916 is being maintained. The number plates are being issued this year in numerical order, so that the highest numbered plate means also the number of licenses issued.

"The following are the number of licenses issued during the first six months of the two years:—

	1916	1917.
January	794	1,985
February	350	654
March	839	3,105
April	4,530	7,794
May	4,914	9,015
June	1,612	4,087

"In the month of May as many as 347 number plates were issued every working day. The majority of these are handled at the office, but a large proportion is daily despatched by mail.

"In all other branches of the motor business similar increases are to be seen. The number of automobile liveries is now 1,020, while there are 462 dealers, and in both cases these figures are greatly in excess of former years. There are also many more motor bicycles in use, the number of licenses at the end of July being 424, of which 276 are new and the rest renewals."

The position is very similar in the other two provinces in which Mr. McKenzie was particularly interested, namely, Manitoba and Alberta. This condition in an agricultural community can only be expected as a result of the high prices obtaining for grain, live stock, and other farm produce.

Some similar objection has been made in the East. There, again, the manufacture of munitions has in part at any rate duplicated the prosperity of the Prairie Provinces.

The figures that have been presented in opposition to the application, correctly taken as they have been from the different companies' annual reports and from Government statistics, are shown by the recent cost developments to be of little value in determining the position of the companies and the burden of to-day.

The added costs are largely the outcome of advances made in the spring and summer of this year. More than that, they do not seem to be final, but rather appear to be growing.

The last annual reports do not, therefore, mirror these increases at all, nor are they of the slightest help in arriving at a proper conclusion on this application. The fact is that abnormal increases in costs have developed since the last annual reports were made.

The point taken by Mr. McKenzie that costs of themselves were not the sole factor, but that increased gross to the companies might well offset the effect of the advances, and that this increased gross must be considered as well as the cost advances.

As a matter of fact, the increased costs have not been met by the increased gross, as the more recent monthly reports show.

The Canadian Northern figures for the months of July, August, and September of this year and of 1916, are returned as follows:—

	Gross Revenue.	Expenses.	Net Revenue.	Operating Ratio.
July, 1917	$3,844,883	$2,940,026	$ 904,856	76·46
" 1916	3,834,191	2,636,812	1,197,379	68·77
Aug., 1917	3,405,200	2,812,000	593,200	82·57
" 1916	3,684,900	2,612,900	1,072,000	70·90
Sept., 1917	3,341,700	2,915,800	425,900	87·26
" 1916	3,187,900	2,455,300	732,600	76·95

These results cannot be disregarded. They show that while the gross revenue of July had a slight increase, the net revenue decreased $292,523, or 24·43 per cent. August, on the other hand, shows a decrease of $279,700 in gross, but nevertheless has an increase in expenses of $199,100, resulting in a reduction in net earnings of $478,800

or no less than 44·66 per cent. In September, there was again an increase in gross, the increase amounting to $153,800, but again the expenses increased by $160,500, reducing the net return, notwithstanding the greater gross, by the sum of $306,760, or 41·86 per cent.

The above figures are obtained from the company's monthly statements. The figures for these three months are taken up in the company's general statement issued for the quarter ending September 30, 1917. This quarterly statement also includes the results of the like quarter of the preceding year. The quarterly statement gives the company's total revenue for these three months as $10,591,807.57 as against $10,706,995.89, for the same period of the previous year. The result is a comparatively small decrease of $115,188.32 in gross receipts, which amounts in percentage to but a little over 1 per cent of decrease.

The expenses are shown as $8,667,867.95 for the three months of 1917, as against expenses of $7,704,982.67 for the same period of the year before. The resultant increase in expenses is $962,885.28, constituting an increase exceeding 12·49 per cent.

The net income for the 1917 period amounts to $1,923,939.62 as against $3,002,013.22 for the 1916 period. A decrease in the net income of $1,078,073.60 which represents a percentage decrease in net amounting to 35·91 per cent.

The increases in expenses are, as a matter of fact, greater than the totals I give disclose. Necessary work has been deferred, owing to the state of the company's finances. The Canadian Northern Railway certainly cannot be charged with ever expending more than was necessary for the maintenance of its lines. As a matter of fact, the charge in the past has been to the contrary, and the amounts expended by the company under this head can well be expressed as relatively small.

Notwithstanding during the period in review the company only expended for maintenance of right of way and structures $1,976,869.14 in 1917, as against $2,279,658.41 in 1916, an apparent economy of $302,789.27, representing a percentage decrease of 13·28 as being effected in this connection. As a matter of fact the expenditure is not saved—it is merely deferred, and the only real result of deferred maintenance and repairs is that the ultimate expenditure will be greater than if made promptly and maintenance and repairs had been kept up concurrently with the necessity.

This decrease of expenses is entirely eaten up by other increases. To merely illustrate: The cost of maintenance of equipment (necessary work and repairs on engines, other running stock, and the like) increased from $1,156,419.05, in 1916, to $1,502,779.46, in 1917, an increase of all but 30 per cent.

I also instance the advance in the cost of transportation for this period in the year 1917 amounting to $4,491,149.49 as against $3,655,746.23 for the same period of the previous year.

The results of October are of particular interest, as in this month a substantial increase in gross revenue is shown. The October, 1917, earnings amounted to $3,941,612.62, as against $3,716,784.77 for October, 1916. The resultant increase in gross is $224,827.85 or over 6 per cent.

The expenses, however, grew at a very much greater ratio. Those of October, 1916, were $2,496,512.78, while for October, 1917, the expenses amounted to no less than $3,350,486.03, the increase here amounting to $853,973.25 or 34·20 per cent.

As a necessary result, there is an alarming drop in net income from $1,220,271.99 to $591,126.59 a decrease of $629,145.40. In short, the company's net revenue, with an increased gross of 6 per cent decreases 51·55 per cent.

It should, however, be noted that, in connection with this month the economics of the preceding quarter in connection with the maintenance of way and structures were not practised. On the other hand, no extravagant expenditure was made under this head. The expenditures of 1917 amounted to $694,653.25 as against $510,141.25.

In view of the increased costs which are apparent in other accounts the increased figures cannot sustain any charge either of improvidence or railway extravagances.

Attention has already been called to the fact that the company spends but relatively little on its right of way.

While the necessity of any possible economies cannot be denied, some economies cannot be practiced without loss in efficiency and resultant damage, not only to the company itself, but also to that portion of the public that are dependent upon the transportation that it ought to provide. It is sufficient to give but one illustration of insufficient maintenance and repair. The grain movement of the autumn of 1916 to the head of the lakes was light. The October receipts at the lake terminals only amounted to 19,673,341 bushels of wheat as against 53,367,710 bushels for October, 1915. The total grain receipts for the month in 1916 only amounted to 27,189,876 bushels as against 60,756,715 for October of 1915. In October of this year 27,729,126 bushels of wheat were received and 31,851,584 of all grains, an increase of 4,661,708 over the same month of the year before or over 16 per cent. The Canadian Northern however only hauled last October to the lake terminals 7,653 cars while it hauled 8,610 cars in October of the year before. Instead of a proportionate increase in the road's grain business the month results in a car decrease of 957 cars or 11 per cent.

A direct reason for this decrease was the physical condition of the line between Winnipeg and Port Arthur. Train schedules could not be kept, and freight wrecks occurred. Efficiency in transportation, including as it does, sufficient terminal facilities, sufficient cars and locomotives for the business offering, and a properly maintained and repaired line of railway, constitutes the chief public necessity in railway transportation.

This efficiency can only be furnished by companies whose business is sufficiently remunerative as to produce the necessary funds to maintain the railway and to meet the ever increasing demands of transportation.

Transportation, if left long enough to the unaided efforts of insolvent or financially embarrassed companies, must, of necessity, break down, to the country's great hurt and injury.

The question for the Board to determine is whether, in the light of the above facts, effect ought to be given to the Manitoba Agreement. If effect be given to the Manitoba Agreement, practically no rate increases can be made in western territory, where the great bulk of the Canadian Northern's business is carried on.

Should the usual practice as between parties to commercial contracts be followed, if it be the duty of the Board to consider the agreement as a pure matter of law, and having regard only to the contracting parties and not to public convenience and necessity, it well may be that the mere fact that the rate called for by the agreement constitutes an insufficient remuneration for the service rendered and may result in actual insolvency, constitutes of itself no ground for relief.

If a builder agrees to do certain work for an inadequate consideration, his loss or its amount is no answer to his contractual liability.

Distinctions, however, between the contractor, on the one hand, and railway companies on the other, are readily apparent. The contractor's charges are not subject to Government or Commission control. The railway company's charges are. The contractor is subject to no duty to the public. The railway company is. Public necessity and service constitute a direct justification for railway construction and railway company incorporation. Moreover, in case the contractor obtains under his agreement an excessive remuneration, that fact of itself is no bar to his enforcing his agreement and collecting the last cent of his consideration. On the other hand, the Board is not bound by any contract under which railways may be entitled to an unreasonably large rate, but reduces that rate to whatever it finds just and reasonable.

Under any other practice, traffic officers of the companies, could from time to time, in many cases make special contracts with shippers at unfairly high rates, or, on the other hand, give favoured shippers unduly low rates.

In either instance, the object of the Act, which is to secure uniformity just as much as reasonableness in rates, would be defeated.

An unduly low rate constitutes an unreasonable rate, just as much as an unduly high one, and the question of whether a rate is unduly low or unduly high can only be established with a knowledge of the cost entailed by the service, which must from time to time vary.

It has been stated that railway company directors are charged with duties and trusts, first, to the public, second, to the company's employees; and third, to the company's shareholders.

I would place the duty to the public, involving as it does proper and sufficient transportation, as being the duty of primary importance.

The mere fact that an agreement, in the light of changed circumstances, proves improvident and provides rates insufficient to enable the company's property to be properly kept up and to meet the current demands of transportation, also involves loss to the shareholders, is not an answer to the company's primary obligation to properly operate the road.

It may well be that an agreement made by the directors elected by the shareholders cannot be set aside on the application of the shareholders themselves; but, on the other hand, it is clear that no agreement ought to stand in the way of the public as a whole obtaining the full benefit of that measure of transportation, which a properly maintained condition of the company's facilities would permit.

Further, an improvident contract made by one company is not merely of injury to itself and that portion of the public using its line—Parliament has so authorized railway construction that the line of one company or another parallels those of others to such an extent that in many instances an unreasonably low rate reserved by contract made by one company must be adopted by the other line. As a result, the other companies are just as much injured as is the company to the contract, and by an act over which they have not the slightest control.

It is also apparent that an agreement which reserves an unremunerative rate applicable in the one district, involves a discrimination as against other districts where traffic and operating conditions are similar, and directly infringes on the provisions of the Act requiring uniformity in rates.

The Board does not consider any agreement made by a shipper to pay a given rate any justification for the rate if it be unreasonably high. On the same principle, when rates reserved by contract prove, in the face of changed conditions and increased costs, unreasonably low, the rates must be made reasonable, notwithstanding the contract.

In normal times, the contract was entirely free from objection. The discrimination which it caused in one district as against the other, was relieved by the Regina Rate and Western Rate Cases. With to-day's costs and to-day's conditions, the contract reserves an unreasonable rate, under which the Canadian Northern is unable to properly maintain its properties; and, with the changed conditions, agreeable to the above principles and practice of the Board, higher rates ought to be put in, notwithstanding the provisions of the Agreement.

The effect of increased costs on railway revenues is not peculiar to the Canadian Northern. With its larger field and greater diversity of operations, the Canadian Pacific returns would not as quickly show the effect of different cost advances as those of the Canadian Northern. The returns, however, of the Canadian Pacific for September show an increase of $30,935 in gross on eastern lines, and on western lines of $64,803. The expenses, however, have greatly increased, the increase in eastern

lines amounting to $732,049, and on western lines to $839,145. As a result, with a total gross revenue of $11,476,695 as against $11,380,939, September of this year as compared with September of 1916, produces a net revenue of but $3,727,173 as against $5,202,611. In other words, the drop in net earnings on the system for the month amounts to $1,475,438, a reduction of 28·3 per cent.

Taking the Grand Trunk Railway as the characteristic line in the East—there is no doubt that it may be fairly so regarded—the actual results are very nearly the same as those of the Canadian Northern.

The increased traffic which the contestants to the application urged was inevitable to take place has materialized but the increased gross has entirely failed to make up the losses brought about by increased expenses.

The total transportation revenue of the Grand Trunk for the 10 months' period of 1917, that is to say from January 1, to October 31, amounted to $43,366,844, as against $39,100,498 for the same period of the previous year. The resultant increase is $4,266,346, practically 11 per cent.

For this same period in 1917, however, the working expenses amounted to $33,689,532.48, as against $27,479,538.79 for 1916. The increase in expenses is therefore, $6,209,993.69, representing a percentage growth in expenses of 22·59.

The fact that expenses are unfortunately increasing and that transportation in the later months of the year is subject to greater burdens than during the earlier months is emphasized by taking the figures for October out of this 10 months' period and contrasting the results obtained in October with the results obtained for the full 10 months.

Transportation receipts for October of this year amounted to $1,703,643 as against $1,618,000 for 1916. The increase is still present, although to a much smaller percentage, the whole increase amounting to $85,643, a percentage increase of 1·85.

The expenses for October of this year, however, amounted to $3,876,019.95 as against $3,111,193.36 for the same month of the year before. The resultant increase is $764,826.59, an increase in expenditure of 24·58 per cent.

The result on the transportation net is that it only amounts to $708,930.05 for October of 1917, as against $1,390,537.64, for the month of the previous year. Therefore, it decreases $681,607.59, a percentage reduction of no less than 49 per cent.

The effect of the cost of railway operation over the whole country is beyond question. This loss in net of 49 per cent may well be compared to the October figures of the Canadian Northern, where the net decrease amounted to 51·55 per cent.

There can be no question, in view of the actual results, that the railways require greater revenues and must have them if proper efficiency is to be maintained and the demand of the country for transportation at all adequately met.

I have already dealt with the difficulty in dealing with the emergency in the West and resulting from the agreements and statutes referred to. Difficulties also exist in the East and are specially attributable to the operation of the Grand Trunk under different tariffs.

The rate situation in the East has been largely controlled by water competition and the competition of American lines.

Speaking generally, there is no doubt that it is the right of a company to ignore competition should it desire to do so; and there is also no doubt that the advances in water rates have lessened the competition from that source materially.

The Grand Trunk situation, however, is aggravated by the fact that it is to quite a large extent an American system. It derives a large portion of its tonnage from American points through its ownership of the Chicago and Grand Trunk Railway and other subsidiary American systems. Again, speaking generally, these subsidiary American systems (which are not only owned by the Grand Trunk shareholders, but are operated by the Grand Trunk officials, the whole being operated as one system) are operated under rates upon a lower basis than that obtaining in Eastern Canada.

Not only does the Grand Trunk carry through Canadian territory goods of American origin billed through to an American point, but it also carries goods of American origin into Canada which come into direct competition with Canadian producers, wholesalers, and jobbers. The discrimination was in the past greater than it now is.

An application was made to the Board in 1907, with a view of removing the rate discrepancy, and the disability of the Canadian producer was relieved by the Order issued in the so-called International Rate Case, which reduced rates in Canadian territory to as near the rates in American territory as it was than felt that it was practicable to go.

While undoubtedly the Grand Trunk proper has benefited by the traffic produced by its American subsidiaries, unfortunately earnings in American territory, based as they were upon lower rate schedules, resulted in unprofitable operation of these subsidiary lines, with the result that the Grand Trunk from time to time has had to make good, deficits occurring on the American portions of the system, amounting to large sums of money.

This, again, has been the subject of complaint by the Canadian shippers, who have urged that the surplus that the company earned out of their rates was used by the company to enable it to carry on transportation in the United States at less than cost.

This feature of the rate situation was considered by the Board in the Eastern Rates judgment; and, as a matter of fact, the increases there granted were not so great as they would have been had the tariff basis in the American territory of the system been higher.

The details of these deficits given the Board by the company were filed in the Eastern Rates Case in 1915, and related to the deficits of 1914, the net deficit then shown by the company, resulting from the operation of its American subsidiaries and deducted from the net of the parent company, amounted to $1,230,448.89.

I understand, however, that, with the heavier traffic brought about by the war and before the present abnormal costs obtained, the earnings of these subsidiary lines greatly improved and the parent company was practically, if not altogether, relieved of the burden of these deficits. The statutory reports so indicate.

In view of the necessities of the company and the deficits of the past on the American subsidiary lines of the company, the Board has hoped that the rate situation would improve in American territory and that the company would take advantage of whatever rate increases were possible under leave of the appropriate commissions.

The condition brought about by advanced costs would appear to be somewhat similar in the United States situation to that in Canada.

This has been recognized by the Interstate Commerce Commission in their report to Congress based, as it is, on the financial necessities of the roads, as well as the traffic demands of the nation.

It may also be noted that the Interstate Commerce Commission has recently granted a substantial increase in connection with the very important iron and steel movement in western territory.

The Interstate Commerce Commission has also authorized general increases in what is known as the Central Freight Association Territory as far back as June 29 last. For some reason or other these were not with ordinary despatch fully put into effect by the railway companies.

This question Mr. Hardwell has had up with the companies' officials.

Perhaps one of the most important schedules, having regard to the position of the Canadian shipper, on the one hand, and his American competitor, on the other, is the Detroit schedule, covering rates from Detroit to Toronto and Montreal, and the intermediate points.

The Grand Trunk rates in Canada of importance in this relation are the rates from Windsor (which, of course, is a station en route) to Toronto and Montreal, and upon which the rates from all intermediate stations are scaled.

The basis under which traffic has been carried since the publication of the tariff authorized in the Canadian Eastern Rates Case and prior to the publication of those authorized in the United States 15 per cent Case, is shown by the following schedule:—

	Class. 1. Cents.	Class 2. Cents.	Class 3. Cents.	Class 4. Cents.	Class 5. Cents.
Detroit to Toronto..	38	[illegible]	24	17	14
Windsor to Toronto..	38	33	29	24	19
Windsor differences..	0	[illegible]	5	7	5

	Class 1 Cents.	Class 2 Cents.	Class 3. Cents.	Class 4 Cents.	Class 5. Cents.
Detroit to Montreal..	61·5	53·3	41·[illegible]	28·7	24·6
Windsor to Montreal..	60·0	[illegible]	45·0	[illegible]	30·0
Windsor differences..	– 1·5	– 9·1	4·0	9·3	5·4

From these schedules it will be observed that a shipper from the intermediate station, Windsor, in connection with the all-important fifth class, paid 5 cents more than the shipper from Detroit in the foreign movement to Toronto, and for the movement to Montreal paid 5·4 cents more.

The disparity was not as high in the past, the Board having increased class rates in the Eastern Rates Case by an addition of 2 cents first, scaling down to 1 cent, fifth class, other classes scaling proportionately.

The Canadian increases were allowing owing to the financial position of the Grand Trunk, the Board feeling that, although the apparent difference was great, under war conditions and the demand for all commodities the Canadian shipper would not as a matter of fact suffer.

This added disability was cheerfully accepted by eastern shippers.

Following the publication of the tariffs authorized in the United States 15 per cent Case the rate situation was as follows:—

	Class 1 Cents.	Class 2. Cents.	Class 3. Cents.	Class 4. Cents.	Class 5. Cents.
Detroit to Montreal	70	[illegible]	47	33	28
Windsor to Montreal..	60	[illegible]	45	[illegible]	[illegible]
Windsor differences..	– 10	– 8[illegible]	– 2	[illegible]	[illegible]

The rates from Detroit to Toronto were not then advanced, the rates in Central Freight Association territory being still under consideration by the Interstate Commerce Commission. That Commission, as previously mentioned, announced its decision on the 20th June last, granting increases independently of the 15 per cent previously allowed, but the railway companies, whatever the reason may have been, did not take advantage of this decision to advance the rates from Detroit to Toronto until December 1.

At the time of the hearing in this case, and indeed until the first instant, if effect were given to the application for a 15 per cent increase, the result would have been that the rate from Detroit to Toronto, first class, would have been no less than 5·5 cents lower than the Windsor rate to Toronto, and the difference in favour of the Detroit shipper on articles moving under the fifth class into the Toronto market, as against the Windsor shipper, would have been no less than 8 cents. The same disability would apply proportionately to all intermediate points.

The company has made it possible for the Board to grant the advance without creating this discrimination against the Canadian shipper by filing, effective on the

1st instant, as already stated, its tariff increasing rates as authorized in the Central Freight Association territory.

The following schedule shows the rates as they now will be under the rates from Detroit, as provided for by the company's tariff of December 1, 1917, and with effect given, as this judgment does, to the company's application for a 15 per cent advance:—

	Class 1. Cents.	Class 2. Cents.	Class 3. Cents.	Class 4. Cents.	Class 5. Cents.
Detroit to Toronto..	50	42½	33½	25	17½
Windsor to Toronto.	43½	38	33½	27½	22
Windsor differences..	– 6½	– 4½	0	2½	4½

	Class 1. Cents.	Class 2. Cents.	Class 3. Cents.	Class 4. Cents.	Class 5. Cents.
Detroit to Montreal..	70	61½	47	33	28
Windsor to Montreal..	69	61	52	43½	34½
Windsor differences..	– 1	– ½	5	10½	6½

Absolute parity, of course, is not obtained. It was found impossible to obtain it in the International Rate Case. While the rate situation is not all that can be desired in view of the necessities of the company and the higher American rate basis made effective on the first instant, I would allow the increase of 15 per cent as asked subject to the exceptions herein made.

Increases were sought to be made in the all-rail movement from the East to the West. The increases which the companies desired were increases entirely in Eastern territory. The new all-rail tariff became, therefore, a matter directly affecting the Eastern situation, although the movement was entirely into Western territory.

Much has been said as to the delay in dealing with the railways' application for an increase. The railways' delays in connection with the Detroit Schedule have been mentioned. I might also point out that the Assistant Chief Commissioner, in a memorandum dated the 7th April, 1917, suspending increased lake-and-rail rates until they were discussed at sittings of the Board in the West, gives the following direction with reference to the all-rail increases:—

> "We were told at the opening sittings on March 20 by the representatives of one of the railway companies, that the railway companies contemplated shortly filing tariffs increasing the all-rail rates from Eastern to Western points. If this is contemplated, it would be well for the railway companies to file these all-rail tariffs without delay, so that if any objections are made to them the parties objecting can be heard at the Western sittings, which it will be necessary for the Board to hold to consider the tariffs now before us."

The Western Boards of Trade protested against the tariffs which were subsequently filed increasing the rates for the all-rail movement and requested that the matter should be heard.

For some reason or other, the railway companies did not file the all-rail tariffs as directed. They subsequently explained that owing to lack of clerical help they had been unable to carry out the direction, although the sittings of the Board in the West, where the increased lake-and-rail tariffs and the application for the general fifteen per cent advance were heard, were held as late as June, two months after the direction was given.

As a result, further sittings of the Board had to be arranged and these all-rail increases, which were not only objected to by the western Boards of Trade, but also by the Canadian Manufacturers' Association, had to be heard, after the companies' neglect had been brought to the notice of the Board last September by protests from

the West. The hearings thus rendered necessary were at Calgary, Edmonton, Saskatoon, Regina, Winnipeg, and Fort William; and the increased all-rail tariffs were allowed by the Board's Judgment issued on November 9. It may be noted that the last hearing took place at Fort William on the 22nd of October.

On the record these rates should be considered on a different basis. The companies have already obtained a substantial increase, the 1st class all-rail basing rate to Fort William being advanced from 75 cents to 81 cents, other classes scaling in proportion. The resultant increase of 6 cents on first-class makes an average increase of under 6½ per cent in the five classes of general merchandise. 15 per cent on top of that would make an average increase of approximately 21½ per cent.

In view of the manner in which the through tariffs from Eastern to Western Canada are built up on the combination of the rates current from Port Arthur and Fort William west and certain arbitrary rates from the eastern shipping points to Port Arthur and Fort William produced to a great extent by the summer competition of the lake-and-rail route; and in view also of the fact that the rates to different points in western territory have been constructed on the whole result thus obtained, it is obvious that an interference of a different percentage as applied to the whole might work changes in the relative rate bases of different distributing centres in Western territory.

This, of course, ought not to be done. Much trouble has been taken in the past to arrive at a fair basis of rates as between different districts and to maintain a rate situation of justice from different western distributing points. The matter was referred to Mr. Hardwell, the Board's Chief Traffic Officer, to work out the effect of any change in percentages upon the whole district.

This has necessitated Mr. Hardwell making up a very large number of rates and putting in much labour in comparing the rates in different sections of the country. His report on the question is as follows:—

T.D. 12353.

December 14, 1917.

"Re 15 per cent application and Western rates.

"I beg to report that a close examination of the rate situation as it affects freight traffic between Eastern and Western Canada has convinced me that whether the proposal to allow an increase of 10 per cent be sufficient or insufficient for railway needs, it is illogical, and would also upset the system that has always existed of basing the through rates on Fort William.

The Board recently granted increases in the proportionals for Fort William only:—

[illegible] from 75 cents to 81 cents.
5th class, from 31 cents to 33 cents.

The proposal to accept an increase of 15 per cent in the local tariffs west of lake Superior, would include the tariff from Fort William; therefore, the rates from Fort William to Winnipeg, for example, would advance as follows:—

[illegible]

The suggestion of an increase of 10 per cent from Toronto and Montreal to Winnipeg would result as follows:—

[illegible]
5th class, from 0·71 cents to 0·78 cents.

Deduction from these proposed through rates the increased rates from Fort William would leave the eastern proportionals as follows:—

1st class, 84½ cents instead of 81 cents=104·2 per cent.
5th class, 34½ cents instead of 33 cents=104·4 per cent.

Therefore, the proportionals recently allowed would be increased by less than 4½ per cent.

Furthermore, the wholesale centres in the west might be expected to complain if their distributing rates were advanced 15 per cent while the shippers in eastern Canada were asked to pay but 10 per cent on their through rates.

So far as the basing system is concerned, the existing eastern proportionals might be protected by increasing the rates west from Fort William 10 instead of 15 per cent; but this would not remove the objections to be anticipated from the western jobbers. It might also be expected to arouse the coast cities, who would hardly favour a less increase in the terminal tariff from the lake Superior ports than in the terminal tariff from Vancouver, etc. While the eastern arbitrary system may, perhaps, be considered theoretical, these trade objections may prove real.

In my opinion, the logical solution is to confine the 10 per cent advance to the proportionals east of Fort William. The recent allowance averaged under 6½ per cent in the five classes of general merchandise so that the total now suggested would approximate 16½ per cent. The through rates would then be made by adding the Fort William westbound rates increased by 15 per cent. From Toronto and Montreal to Winnipeg the situation would then be expressed as follows:—

	1st Class.	5th Class.
Present rates from September 1, 1917..	$1.66	71 cents.
If present through rates were increased 15 per cent.	1.91	81½ "
If present through rates were increased 10 per cent.	1·82½	78 "
If present rates were increased 10 per cent to Fort William and 15 per cent beyond..	1.87	79½ "
If through rates prior to September 1, 1917, were increased 15 per cent..	1.84	79½ "

It will be observed that if the Board had included the recent all-rail case in the 15 per cent application, and consequently now granted the full 15 per cent. the rates would approximate to Winnipeg those I suggest; in fact the important 5th class would be the same."

I would adopt Mr. Hardwell's report. The result is that 15 per cent will be allowed in so far as the territory west of Port Arthur is concerned, but the increase will be held down to 10 per cent on the eastern balance of the through rate.

There are already difficulties as to the spread of rates on coal. These spreads would be but further aggravated if percentage increases were allowed on coal. I would allow a flat increase of not exceeding 15 cents per ton on all coal and coke carried in the eastern and western territories. This flat advance on the long hauls will, of course, be a great deal less than a percentage increase of 15 per cent; but on the other hand, on the shorter hauls, it will be larger than the 15 per cent increase would be. The flat rate will, however, bear less harmfully on the consumers generally.

The necessity of this 15-cent increase on a commodity of direct and urgent necessity to the public is much to be regretted. It is, however, inevitable. In order to increase railway revenues to an appreciable extent, commodities constituting a large part of the tonnage carried must bear an appreciable share of increased rates. Coal in eastern territory is chiefly carried by the Grand Trunk and in western territory the coal tonnage of the Canadian Northern is fast increasing. Both these systems require increased revenues very badly.

Common clay and sand, gravel and crushed stone are commodities which cannot, in my view, stand a 15 per cent increase. I would however, permit the companies to increase their rates on these commodities, both in eastern and western territories, by adding to existing rates not more than five cents a ton.

In western territory, as already indicated, any relief the Board can give the railways is limited by the provisions of the Crow's Nest Pass Agreement.

The chief traffic in the West is grain. The Crow's Nest Pass Agreement will not permit a general increase of 15 per cent to be made to the Lake Superior ports; but under it a flat increase of 2 cents a hundred, which will approximate a 10 per cent advance on what is perhaps the average western grain rate, can be obtained on the commodities included in the existing tariffs on grain, flax seed and their products and I would allow it.

It is quite true that neither the Canadian Northern nor the Grand Trunk Pacific are bound by the provisions of the Crow's Nest Pass Agreement or Act. On the other hand, while it would be open for the Board to permit an increase of 15 per cent in their rates, over a very large part of the territory served by one or other of these systems grain could undoubtedly be hauled to the Canadian Pacific. The result would be that both these companies, in order to protect their traffic, would reduce their rates at all points where their traffic would suffer from Canadian Pacific competition.

The element of unequal rates would be again introduced into the western territory; and I am convinced that this is no better for the railways than it is for the districts.

The Crow's Nest Pass Agreement again, does not call for lower rates for the whole territory as now operated. The reductions apply merely to the then existing tariffs, and, therefore, to operations of the company as carried on at the time that Act was passed.

I am of the opinion that discrimination should be avoided, and that the effect of the Crow's Nest Pass Agreement must be extended to the system of the company as to-day operated.

Under present tariffs no distinction is made between stations in the territory covered by the company's tariffs in effect when the agreement was made and those upon its subsequent construction. The Board, in my view, ought not to permit any such distinction to be now made. The Crow's Nest Pass Agreement was considered by the late Chief Commissioner Killam J., in British Columbia Coast Cities *vs.* Canadian Pacific Railway, 7 C.R.C., 125. His judgment reads:—

> "As a result of this Act and the agreement made under it, the company made tariffs of reduced rates upon the classes of merchandise referred to, not only from Fort William and points east thereof westward, but also from Winnipeg westward, without similarly reducing rates on the same classes of merchandise from Pacific points eastward. These reductions cannot be considered as having been forced upon the company, but were the result of an agreement which it chose to enter into for the purpose of obtaining a subsidy in aid of the construction of a line of railway. The agreement and the statute did not even deal with rates from Winnipeg at all. When the Statute was passed, and when the agreement was made, the law prohibited unjust discrimination between localities, and while Parliament did not stipulate for similar reductions over western portions of the company's railway, it should not, in my opinion, be considered as having authorized what would, if done otherwise, have produced unjust discrimination. I think that we are justified in inferring that, in respect of the classes of merchandise to which these tariffs relate, the reductions did result in such discrimination, and that the rates from Vancouver eastward, upon similar traffic carried under similar circumstances, should be proportionately reduced."

In my view full effect should be given to the above principles.

In so far as concerns carload rates on grain, flax-seed and their products in the West, other than the rates to the lake Superior ports and intermediate points held down by the terminal rates; also on the same commodities from Port Arthur and Fort William eastward, and carload grain and grain products in Eastern Canada, I would allow the application for a flat 15 per cent advance, subject to a maximum increase of 2 cents per 100 pounds in the existing rates.

The consideration of chief importance underlying the lumber rates in the West is their relation one to the other. The spread is of greater importance to the lumber industry than the amount of the rate itself. A straight percentage increase would improperly accentuate existing spreads from lumber producing territories and dislocate business. It would have a specially detrimental effect upon the British Columbia industry.

On the other hand, a general flat increase might bear with undue severity upon short hauls. There are rates as low as 5 cents a hundred. A flat increase of 3 cents, which on a rate of 46 cents would be an increase of only 6½ per cent, would, in the case of a 5-cent rate, amount to an increase of 60 per cent.

The whole western lumber rate situation is full of difficulty and presents a highly technical rate problem. The question as to how increases in lumber rates can be best made without dislocation of traffic by changing the rate relationship now existing between present mills and at the same time result in no undue hardship to the consumer, was referred to Mr. Hardwell for his opinion. Mr. Hardwell's report, in part, is as follows:—

> "As regards lumber; so far as the British Columbia mills are concerned, the desideratum being the preservation of the existing rate relationship between the various mills, as emphasized at the Calgary hearing and in past proceedings, it is clear that this cannot be attained by means of a percentage of increase, even though held down to a maximum per 100 pounds advance for the longer hauls.
>
> "The entire situation has been very carefully examined, therefore, with the view of settling on flat increases in cents per 100 pounds which should avoid any possible complaints of preference or discrimination. Working on a tariff that has no uniform basis, it is impossible to arrive at advances accurately representing 15 per cent. I find, however, that the adoption of the following recommendation would not only afford a broad basis, but would nearly approximate 15 per cent, namely:—
>
> "To Alberta destinations, also to Canadian Pacific Railway main line stations as far east as Mortlach, Sask., the increase to be 3 cents per 100 pounds.
>
> "To all other destinations in Saskatchewan the increase to be 4 cents per 100 pounds.
>
> "To destinations in Manitoba, also in New Ontario east to Port Arthur, the increase to be 5 cents per 100 pounds.
>
> "To a large number of destinations these suggested increases would equal 15 per cent; to others they would be slightly over or under 15 per cent. From the interior mills to Winnipeg the rate would advance from 33 to 38 cents, or precisely 15 per cent; from the coast mills from 40 to 45 cents, or one cent less than 15 per cent.
>
> "From British Columbia to Eastern Canada I would increase the difference over the rates to Port Arthur 10 per cent as recommended for the class rates. From the interior and coast mills, respectively, the rates to Toronto points would go up from 60 and 67 cents to 67 and 74 cents;

110 per cent of the through rates, as first proposed, would give 66 and 73¼ cents.

"To Montreal points the result would be similar.

"From the other lumber shipping territories I submit the following recommendations:

"From the northern Manitoba and Saskatchewan spruce districts, 15 per cent, subject to a maximum of 3 cents per 100 pounds to destinations in Saskatchewan, also in Manitoba east to Winnipeg, and 4 cents to those in Alberta and east of Winnipeg to Port Arthur.

"From the Lake of the Woods and Rainy River districts 15 per cent, subject to a maximum of 3 cents per 100 pounds, to destinations in Manitoba, and 4 cents to those in Saskatchewan and Alberta.

"From Port Arthur 15 per cent, subject to a maximum of 3 cents to Manitoba, 4 cents to Saskatchewan, and 5 cents to Alberta.

"Between points in Eastern Canada 15 per cent flat. As the highest local eastern rate appears to be 20 cents this would make the maximum advance 3 cents."

I would adopt M. Hardwell's report. Under it the rate differences from the different competing mills would be maintained as they now are.

In so far as the bulk of the movement is concerned, Mr. Hardwell's recommendations will result in the 15 per cent increase; in other instances the increase will not amount to 15 per cent; and, in other cases, the percentage increase will be slightly in excess of 15 per cent.

The adoption of Mr. Hardwell's recommendations will put the lumber rate upon a more scientific basis than it has been in the past.

The rate situation which Mr. Hardwell's report preserves is the outcome of an agreement between the associated western mills and the railways. Under this arrangement, the rates from the coast mills east to Winnipeg and Port Arthur, are made the basic rates. The rates from the interior mountain mills and from the mills as far east as Calgary and Blairmore are all based on this standard rate and scale, not strictly having regard to mileage, but scaled according to the agreement between the trade and the railways.

These mills enter into more or less competition with mills in the Northern Spruce Belt (Northern Manitoba and Northern Saskatchewan); also with mills in the lake of the Woods district on the Canadian Pacific, and in the Rainy River district on the Canadian Northern; and to some extent with the mills at Port Arthur.

The situation is highly competitive having regard to the lumber business. Mr. Hardwell's report is in my opinion, the best solution available.

On through movements of these lumber commodities from western shipping points to destinations east of Port Arthur, under Mr. Hardwell's report, the increase permitted is a proper and logical result having regard to the dispositions made of other through movements, and in view of the increase already made in the all-rail and lake-and-rail rates.

While increases have not been made in the American transcontinental rates, I would, nevertheless, permit an increase in the transcontinental class rates, as they do not reflect competition to the extent the commodity rates do. The rates, however, are built up on the all-rail movement, but in view of the American scale and for the reasons already given I think the increase ought to be reduced to 10 per cent.

Transcontinental commodity rates, however, are directly competitive. If unduly increased over the American transcontinental rates, the results well might be that Canadian produce would not move at all in cases where American produce was available, or in some other instances, if it did move, it would move over American

lines. I would not at the present advance the transcontinental commodity rates unless these rates are advanced in conformity with advances made by the American lines.

Generally speaking, the rail freight rates in British Columbia are on a considerably higher basis than in the prairie territory. In the Western Rates Case, the Board found that a higher level of charges was justified by the greater cost of conducting transportation. An advance of 15 per cent would, however, materially increase the spread between the mountain and the prairie tariffs, and having regard to all the circumstances, I am of the opinion that in the so-called "Pacific" territory an increase of only 10 per cent should be allowed, but, of course, no rates to be lower than the prairie rates as increased. This percentage difference will not apply to the rates between the ports of call on the British Columbia lakes, as these being now on the prairie basis must take the prairie increase of 15 per cent.

Railway tolls covering services incidental to transportation stand on a different footing to those charged for the line movement. The application for a general advance and authority permitting a general advance in freight rates not exceeding 15 per cent would, however, include them unless specifically excepted. Some of these charges, for example, tariffs for heating and refrigeration, have been recently considered by the Board. Other such services in their nature represent entirely a terminal activity and have particular importance at different local points. Strong objection has been taken by Boards of Trade, particularly those at larger points, to any increase being made on this application and on the general grounds on which it is supported to any increase in these tolls.

In my opinion the objections are well taken, and I would refuse on the present record any increase of tolls and tariffs applicable to switching, whether local or interswitching, weighing, demurrage, refrigeration, heated car service, car diversions, reconsignments, storage, wharfage, sleeping or parlour car accommodation, or other special services.

The application for an increase covers passenger rates as well as freight rates.

I am of opinion that the present maximum rate of 4 cents in British Columbia is so high that it ought not to be advanced. On the other hand, I would grant the advance in rates in other territory where the present maximum rate is three cents as against the four-cent rate in British Columbia.

In so far as passenger rates are concerned, it is entirely in the public interest at the present time that passenger travel should be as light as possible. The usual considerations applying to passenger traffic are to-day reversed. Public interest to-day calls for a reduction wherever possible in passenger service, to the end that the country's resources of coal, railway facilities and supplies, as well as man power, should be conserved as much as possible for all essential freight movement. The same considerations do not, of course, apply to the necessary freight movement.

On the other hand, it must be realized that the Board cannot make rates, having in mind an improved and more economic location and system of railways. The Board's duty as I see it, and as I have already pointed out, is to control and adjust rates, having regard to the systems of railways that Parliament has authorized. The Board must take the railway ownership just as it finds it.

No greater profits will be obtained by the railways under the new rate schedule than in the past. The increased rates allowed will certainly not equal the increase in costs to which the railways are subject. These increased costs are not in any way attributable to the railway managements. They are very largely represented in wage increases which have had the approval of the public at large. Public bodies and public sympathy have been with the men in the increases which they have obtained. No objection whatever has been made by any contestant on the ground that the railways have improvidently increased wages. The other items of cost increases are

chiefly the result of to-day's prices of coal, steel material, and railway supplies. The railways suffer in this regard in common with other users of these necessities. The increased cost can certainly not be said to be the railway's fault.

It must be realized that these increased costs can only be met by increase in tariffs. The railways' revenues are derived from transportation.

The increases granted do not work out at the same percentage in both eastern and western territory.

While it may be that the increases granted in western territory may not prove sufficient to meet the increasing demands on the companies' exchequers, they are as great as the Board can authorize on the present application, in view of the Crows Nest Case, with the exception of the increases on coal rates.

In the West, the application in one instance called for a 15 per cent increase in coal rates.

As the coal-rail haul in western territory is long, a 15 per cent rate increase would, on the whole, have netted more than 15 cents a ton—much more on some of the long hauls.

The haul on coal in the East is certainly short, having regard to the volume moved; and the flat increase of 15 cents a ton the railways asked in eastern territory produces more revenue than a percentage increase of 15 per cent would. In adopting the flat increase of 15 cents per ton on coal, I am of opinion that substantial justice is being done.

While it is true that in so far as western territory is concerned, on the great bulk of traffic, rates would only increase approximately 10 per cent and eastern rates are, speaking generally, raised 15 per cent, it must be borne in mind that, while the rates in the two different sections of the country are much nearer equality since the deductions worked under the Western Rates Case and the increases given under the Eastern Rates Case took effect, again speaking generally, rates in the West are still higher.

As a result subject to the limitations worked by the Crows Nest Agreement as extended by this judgment and to the specific directions herein contained the companies are permitted to raise their general rates 15 per cent and make the specific advances herein allowed. *22 Can. Ry. Cas. 49.*

Re COMPLAINT OF MONTREAL BOARD OF TRADE TRANSPORTATION BUREAU AGAINST CANADIAN PACIFIC RAILWAY COMPANY'S PROPOSED LIMITATION OF FREE TIME AT ST. JOHN, N.B., ON THROUGH SHIPMENTS OF GRAIN AND GRAIN PRODUCTS TO BAY OF FUNDY PORTS, VIA THE SEELY LINE.

It appeared from the evidence that for many years the Canadian Pacific Railway Company allowed ten days' free time, inclusive of Sundays or holidays, for the transhipment of grain and grain products from C.P.R. cars at St. John, or West St. John, to ports of the Seely line to Bay of Fundy ports.

By its grain and grain product tariff C.R.C. E-3339, effective September 1, 1917, this free time was cut down to five days, not counting Sundays and holidays. That provision was carried forward in Supplement No. 2 to C.R.C. E-3339, effective December 6, 1917.

The applicants contended that no demurrage should be charged for delays in transhipment to the Seely line at St. John because it was contrary to exception C of rule 1 of the Car Service Rules, which became effective on August 20, 1917, in their amended form.

Held, Assistant Chief Commissioner Scott in his judgment, January 8, 1918, concurred in by Deputy Chief Commissioner Nantel and Commissioners Boyce, McLean and Goodeve, that ten days' free time was sufficient, but that if it was not that then

some arrangement should be made for the construction of a freight shed for the protection of grain and grain products so that the cars could be released and the traffic held in a protected place awaiting loading in the vessels. 23 Can. Ry. Cas. 9.

COMPLAINT OF THE RETAIL MERCHANTS' ASSOCIATION, PORT ARTHUR, ONT., AND FORT WILLIAM, ONT., "RE" ADVANCED CARTAGE CHARGES.

This complaint was in effect an application for the re-opening and re-consideration of an application which had previously been dealt with in the Board's judgments of February 5, 1915, and November 22, 1915: *Application of the Fort William Board of Trade for the establishment of a Cartage Service at Fort William; or for the abolition of the custom of the railway company of collecting the consignor's cartage—from the consignee. Files 18663.38 and 18663.30.*

It was contended that the existing situation was a discriminatory one, in that the practice of advanced cartage charges was allowed only in respect of a limited number of originating points in Ontario and Quebec. The judgments referred to pointed out the absence of jurisdiction of the Board over cartage companies, and that the Board was without power to regulate the charges made by these companies.

Held, Commissioner McLean in his judgment, January 11, 1918, concurred in by Assistant Chief Commissioner Scott, that the facts as developed in the application did not take it out from under the principles laid down in the judgments referred to, and that the situation was that the grievance complained of was one which it was not within the powers of the Board to correct, and that the Order asked for could not be granted. *24 Can. Ry. Cas. 80.*

IN THE MATTER OF THE APPLICATION BY THE CANADIAN RAILWAYS FOR A GENERAL ADVANCE IN FREIGHT AND PASSENGER RATES, AND IN THE MATTER OF THE JUDGMENT OF THE BOARD GRANTING CERTAIN INCREASES TO RAILWAY COMPANIES IN BOTH EASTERN AND WESTERN TERRITORY. FILES 27840, 27840·1 AND 27840·19.

Judgment, Chief Commissioner Drayton, January 15, 1918, concurred in by Assistant Chief Commissioner Scott, Deputy Chief Commissioner Nantel, Commissioner McLean and Commissioner Goodeve:—

As a result of protests which were made by Live Stock Shippers' Associations, Lumber Shippers' Associations, and Grain Shippers' Associations, as well as the application of the Government of the province of Manitoba, for leave to appeal from the judgment herein, a sitting of the Board was held at Ottawa, on Thursday, the 10th of January, 1918, to consider these protests.

It was determined at the sitting to give leave to the Government of Manitoba to appeal on the questions of law on which that Government desired to appeal to the Supreme Court of Canada. The other protests referred to were not disposed of.

The matter that the Board considered in connection with these protests was the effective date which should be given to the Board's judgment.

No appearance was made by any Live Stock Shippers' Association, and no representations were, therefore, made on behalf of their interests.

Dr. Magill and Mr. Frank Fowler appeared for the grain interests and Mr. Kelly and Mr. Bacon for the lumbermen.

I first deal with the lumber situation.

At the hearing it was asked that the effective date should be postponed until April 1 next. Other representations have been made in writing asking that the effective date of the tariffs should be made the 1st of March, the 15th of March, the 1st of April.

There is no doubt that the desire of the trade to escape the higher rates is general.

The application in this case was lodged last April. Sittings of the Board at which the application for an increase of rates was heard were held as far back as the 5th of last June, and the lumber interests were represented at these hearings.

As far back as the 6th of June last Mr. Mackin, chairman of the British Columbia Lumber and Shingle Manufacturers' Association, Vancouver, said:—

> "We notice one of the railways has stated that they would like to have an emergency declared, and this rate made effective within thirty days. What would be our position with a great deal of business on our books at the present time sold on the basis of the old rate? Is it not reasonable we should be given sufficient time? We think thirty days is not enough within which to clean up that business."

He was asked the question:—

> "Are your contracts made in that way? In view of the present situation, the changed conditions, are you not making most of your contracts subject to that?"

Mr. Mackin's reply was:—

> "We have for the last ten days been doing that. But most of the lumber is sold on the conditions I have named above."

Mr. Alexander Wood appeared at the same sitting for the Rat Portage Lumber Company, Limited. He though that three months would be the least time within which orders filed could be got out.

Mr. Adolph, of the Adolph Lumber Company, at the sitting held on the 16th of June in Nelson, B.C., showed according to his quotations, that he had 2,000 orders which would have to be delivered at the present rates, and that he had no right of cancellation. He also stated that he had to deliver his lumber within thirty days if he could, but that under present conditions it would take two months to deliver the lumber.

On cross-examination by Mr. Peters on behalf of the railway companies, the record shows:—

> "Mr. PETERS: Have you any lumber contracts taken which you accepted on condition that the rates remain the same as at present? Haven't you got orders now booked where you are protected in case of advance in freight rates?
>
> "Mr. ADOLPH: Yes, as soon as we understood that there was an application.
>
> "Mr. PETERS: You did not mention that. I thought you were going to mention it. How long have you had orders like that?
>
> "Mr. ADOLPH: Probably three weeks.
>
> "Mr. PETERS: Not longer than that?
>
> "Mr. ADOLPH: I do not think so, and we have not a great many taken under those conditions.
>
> "Mr. PETERS: They are all taken that way now?
>
> "Mr. ADOLPH: A man would be a very poor business man to take them any other way."

What may be said of lumber may be said of every other commodity handled by the railways. The fullest publicity has been given the railways' application for increased rates. The shippers have had notice of it for upwards of eight months. They have certainly had as much notice as they would have had if the railway companies had gone to the unnecessary expense of filing every tariff before the question

was considered by the Board. Speaking generally, they have been in a position to protect themselves by taking orders at the point of production subject to the cost of railway haul, whatever that might be.

The only notice under the Act that the railway companies are obliged to give is thirty days. Shippers, in the present instance, have had notice, as already stated, of over eight months. Doubtless there has always to be more or less inconvenience and perhaps loss suffered every time a rate advance is made, but this trouble is caused just as much by other advances in any necessity whether it be supplies or labour.

With the notice that the shippers have had in this instance, this inconvenience should have been reduced to an irreducable minimum if the ordinary precaution, as defined by Mr. Adolph himself, had been adopted.

As it is now, there will still be delay before the increases are put in. The whole of the railways' demands have not been given effect to. Instead of a blanket rate increase, effect has been given to the position taken by the lumber interests and specific advances are made, resulting in the necessity of having new tariffs provided. In all probability, this will take some time, and until the appropriate tariff is provided the judgment of course cannot be carried into effect. The circumstances and publicity of the application are such that no application for a stay of the judgment ought to be granted.

This disposes of all requests for suspension of the judgment, except in so far as the movement of wheat is concerned. The position here is entirely different. I would give effect to Mr. Fowler's application.

Wheat buyers and country elevators are not permitted to carry on business in the ordinary course in so far as wheat is concerned. They are compelled by order of the Board of Grain Supervisors for Canada to purchase wheat at a specific price. They are also compelled by the same Board to sell wheat at a specific price.

Mr. Fowler's figures, which were not disputed by the railways, show that the Board of Grain Supervisors has held these grain buyers down to a price which will certainly permit of no excessive or unreasonable profit, but will possibly result in some loss, certainly in loss having regard to the activities of the buyers, in so far as wheat itself is concerned.

In view of the artificial position, therefore, of wheat, brought about by legislation doubtless necessary in view of war conditions, and in view of the position in which wheat purchasers have been placed, I am of opinion that the increases allowed for the carriage of wheat ought not now to be made effective. I would postpone the effective date of rate increases for the transportation of this commodity until the 1st day of June next. This will enable all wheat purchased at the old rate and subject to the old conditions to be hauled to Fort William before the new rates take effect.

The like conditions do not apply to coarse grains, nor indeed to any grain other than wheat. In my opinion, the effective date of the judgment ought not to be postponed having regard to these commodities.

The Board's judgment was issued on December 26, 1917. It was then made public, and the parties to the issue were advised as to the action of the Board. The judgment was given the fullest publicity by the press. 22 Can. Ry. Cas. 49.

Under the Railway Act, tariffs may be filed by the railway companies of their own motion, or may be directed by the Board; and the Board in directing tariffs to be filed may designate the date at which any tariff will come into force.

In view of all the circumstances, railway companies ought to file the necessary schedules and tariffs to take effect not earlier than the 1st day of February next.

OTTAWA, January 15, 1918.

The Assistant Chief Commissioner, the Deputy Chief Commissioner and Commissioners McLean and Goodeve concurred.

Re PROPOSED INCREASE IN CAR MINIMUM ON CARS FOR PEDLAR CAR SERVICE OF PACKING-HOUSE PRODUCTS.

As a result of a complaint made to the Board by the Canadian Manufacturers Association, the Board suspended certain tariffs in Eastern Canada increasing the car minimum for refrigerator cars used in what is called the Pedlar Car Service for packing-house products, from 9,000 to 15,000 pounds.

It appeared from the evidence that an arrangement had been made between the Canadian Freight Association and certain packing houses, that the railway companies would supply refrigerator cars for the transportation of fresh meats, dressed poultry, packing-house products, butter and eggs, from packing-house centres like Toronto and Hamilton to points in a direct run on a railway line, at the published less-than-carload rates, provided the shipper paid an amount at least equal to the second-class rates on 6,000 pounds to the farthest point for which a consignment was shipped in the car. This arrangement was not provided for by tariff.

It also appeared that the pedlar-car system was one of considerable benefit to the packing-house operators. The railway companies in justification of their desire to increase the minimum asserted that with the increased demand for car service throughout the country and the particularly urgent demand for refrigerator cars to transport foodstuffs to the seaboard for overseas consumption, they could not spare as many cars for this pedlar-car service as were then being used by the packers, and they submitted that if the minimum were icreased the packers would put a bigger load in each car and in that way use fewer cars. In addition to this, there is the general movement among the shippers, as well as railway companies, to economize in car service by increasing loads. This Board has in a number of instances recognized the wisdom of more compact loading by authorizing increases in carload minima.

From the evidence submitted at the hearing it was clear that the shippers of packing-house products had not been as economical as they might have been with refrigerator cars.

Held, Assistant Chief Commissioner Scott in his judgment, January 17, 1918, concurred in by Deputy Chief Commissioner Nantel and Commissioners McLean and Boyce, that if the shippers wished to insist on the use of the cars in question in the future, that the railway companies were entitled to an increased revenue from them and that the minimum should be increased to 12,000 pounds.

BELL TELEPHONE COMPANY *v.* CITY OF OTTAWA AND COUNTY OF CARLETON.

The Board is given no jurisdiction under section 47 to make the payment of compensation a term of an order approving the location and construction of a telephone line upon a public highway or to impose any condition for which a municipality may contend in bargaining with a telephone company as a term or condition of such order.

Grand Trunk Pacific Ry. Co. v. Fort William Landowners and Fort William Land Investment Co., "et al," (1914), A.C. 224, at p. 229, *13 Can. Ry. Cas., 187,* followed.

It is not the function of the Board to decide upon the validity of Dominion or provincial legislation.

Under its charter, 43 Victoria chapter 47, section 3 and the interpretation clause of the Railway Act, section 2 (11), the Bell Telephone Company has power to carry its lines along a bridge on which there is a public right of travelling.

Auger and Son and D'Auteuil Lumber Co. v. Grand Trunk and Canadian Pacific Ry. Cos., 19 Can. Ry. Cas., 401, followed.

The facts are fully set out in the judgment of Mr. Commissioner McLean, concurred in by Assistant Chief Commissioner Scott and Mr. Commissioner Boyce, January 21, 1918. *22 Can. Ry. Cas., 421.*

SESSIONAL PAPER No. 20c

Re APPORTIONMENT OF COST OF WIDENING BRIDGE CARRYING LONDON STREET OVER CANADIAN PACIFIC RAILWAY, WINDSOR, ONT.

The Board by its Order No. 25052, dated June 13, 1916, directed the Canadian Pacific Railway Company to widen the existing bridge at London street in the city of Windsor to a width of 56 feet. Sixty-five per cent of the cost of the work was placed on the railway, and 35 per cent on the applicant (city of Windsor) or the Sandwich, Windsor and Amherstburg Railway Company, as might be determined by the Board after reading any submissions the Sandwich, Windsor and Amherstburg Railway Company, and the applicant might desire to make on the apportionment of the said 35 per cent of the cost of the work. 21 Can. Ry. Cas. 66.

The city of Windsor and the Sandwich, Windsor and Amherstburg Railway Company submitted facts and argument in writing on the question of the proper apportionment of the 35 per cent of the cost of widening the bridge, mentioned in the Order, between them.

Held, Assistant Chief Commissioner Scott in his judgment, January 26, 1918, concurred in by Commissioners McLean and Boyce, that the 35 per cent referred to in the said Order should be paid by the city of Windsor.

Re CARLOAD MINIMUM TAN BARK.

The Canadian Pacific Railway Company by Supplement 8 to its Tariff C.R.C. 33225, and the Grand Trunk Railway Company by Supplement 1 to its Tariff C.R.C. E.3477, effective May 21, 1917, made certain increases in their minima on tan bark in carloads.

The tanners' section of the Canadian Manufacturers' Association applied to the Board for cancellation of the Supplements in question and asked that the carload minima that were effective prior to the increase be re-established.

Held, Assistant Chief Commissioner Scott in his judgment, February 5, 1918, concurred in by Deputy Chief Commissioner Nantel and Commissioners McLean, Goodeve and Boyce, that it would be reasonable to allow 28,000 pounds as the minimum for the standard car, and that an increase in the minima of the cars in question should be for cars 30 feet 6 inches and under, 21,000 pounds; and for cars over 30 feet 6 inches and not over 34 feet 6 inches, 23,000 pounds. Held, further, that the increases should only apply in cases where there is a special tariff in effect.

In re PROPOSED CHARGE OF BELL TELEPHONE COMPANY FOR CALLS BETWEEN NORTH GOWER, KEMPTVILLE, AND SOUTH MOUNTAIN CENTRALS.

It appeared that the Bell Telephone Company had, for many years, carried on business at Kemptville, and that in 1912 it purchased and took over the Heckston Rural Telephone Company which served the territory adjacent to South Mountain where the Bell Telephone Company had a central office; that ever since the Bell Telephone Company took over the Heckston Company there had been a free interchange between Bell subscribers on the South Mountain Exchange and Bell subscribers on the Kemptville Exchange.

Complaint was made to the Board by those served by the Bell Telephone Company through its centrals at Kemptville, South Mountain and North Gower, against a charge of ten cents by the Bell Telephone Company for connection between these centrals.

Held, Assistant Chief Commissioner Scott in his judgment, February 8, 1918, concurred in by Deputy Chief Commissioner Nantel and Commissioner Goodeve, that the subscribers in question had no right as a strict matter of law to the con-

tinuance of the free interchange that had been enjoyed. Held further, however, that there was undoubtedly representation made by the Bell Telephone Company that free interchange should be given, and that there was a moral obligation on the company to maintain that free interchange for a reasonable time and under reasonable conditions, and that the change proposed should not be permitted to be brought about on the short notice given by the Bell Telephone Company to its subscribers, and the Board decided that the charge for interchange was not to become effective until January 1, 1919, and that on that date any subscriber of the Bell Telephone Company, on the three exchanges under consideration, should be permitted to be relieved of his contract whether it expired or not.

Re EXPRESS RATES ON CREAM IN BRITISH COLUMBIA.

Complaints had been made to the Board regarding the express rates on cream in British Columbia as compared with the rates charged in Alberta. Complaint was made by Mr. S. P. Pond of the Beechnut Creamery of Nelson, B.C., stating that the rates of the Dominion Express Company were excessive. It was said that the regular merchandise rate was charged on cream shipments, which made the charges too high. Comparison was made with the rates charged by the Great Northern Express Company. It was said that these rates were much more favourable than those charged by the Dominion Express Company and were available for shipments into Nelson. The applicant desired to have the same rates apply on the movement into Nelson over the Dominion Express Company's lines as applied on the Great Northern Express Company's lines. The Dominion Express Company, in its answer, pointed out that the applicant was in error in stating that the merchandise rates were those which applied on cream by it, and detail was given as to its cream tariff in British Columbia. This matter is subsequently referred to.

A hearing in this matter took place at Revelstoke, B.C., in June, 1915. The applicant was unable to be present but submitted a written statement again emphasizing comparison with the rates charged by the Great Northern Express Company. The Dominion Express Company, in its answer, stated that the rates charged by the Great Northern Express Company were rates which applied to lines of that company in the Western portion of the United States; that these lines extended a few miles across the border into Canada touching some Canadian points; and that the same rates were extended to these points. The Dominion Express Company took the position that it could not afford to meet the competition of these rates and was not obligated to meet competitive rates.

Subsequently when the matter was taken up by further correspondence with the applicant he stated that he was going out of business, but that the matter was going to be gone into further by the Nelson Board of Trade. The Nelson Board of Trade thereafter wrote, setting out in detail comparisons of the Great Northern Express rates on business up to 75 miles with those charged by the Dominion Express company. The Board of Trade was apparently under the impression that the tariff as charged by the Great Northern Express Company was one which had been imposed upon it by the Board; and the question was raised whether the intention of the Board in imposing the tariff in question on the Great Northern on business to points in Canada was to impose a tariff on that company which would not be applicable to all express companies doing business in Canada. Specific rates were referred to which required, aside from the question of principle involved, checking by the express company, and this checking was taken up.

Held by Commissioner McLean in his judgment, February 8, 1918, concurred in by Chief Commissioner Drayton, that giving due weight to the difference in transportation conditions as recognized in the decision of the Board and the amended

tariffs implementing these decisions, it did not appear that the Board would be justified in directing that the reduction in rates asked for should be made.

Held, further, that with regard to the application that had been made for a 200-mile distance, that if it was the desire of the express company to continue with the application, it would have to be heard at such points in British Columbia as will enable the parties vitally interested to submit their positions.

DEPARTMENT OF AGRICULTURE FOR CANADA *v.* GRAND TRUNK RAILWAY COMPANY.

Where no negligence has been shown on the part of the railway company in carrying out the construction of drainage works, and the damage, if any, is due solely to reasonable exercise by the company of the powers conferred upon it, the owner of adjoining lands cannot recover compensation. Such an injury should have been foreseen and compensation claimed for it under the statute at the time the railway was constructed. Under the circumstances, the cost of lowering a railway culvert after construction to provide better drainage should be borne by the adjoining land owner.

Wallace v. Grand Trunk Ry Co., 16 U.C.R., 551; Knapp v. Great Western Ry. Co., 6 U.C.C.P., 187; Nicol v. Canada Southern Ry. Co., 40 U.C.R., 583; L'Espérance v. Great Western Ry., 14 U.C.R., 173, followed; Denholm v. Guelph and Goderich Ry. Co., 17 Can. Ry. Cas., 318, distinguished.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, February 8, 1918, concurred in by the Assistant Chief Commissioner, and Commissioners McLean and Boyce. *23 Can. Ry. Cas., 77.*

In re GREAT NORTHERN RAILWAY SIDINGS.

Subject to the jurisdiction of the Board in respect of adequate and suitable accommodation for traffic, the railway company may, after the route map has been approved, locate its tracks upon its own right of way without approval from the Board as to the location of these tracks, except where highways are crossed. 23 Can. Ry. Cas. 5.

When industries have become dependent upon C.L. facilities afforded by a particular track (other than a team track) located wholly on the railway right of way, such track should not be removed or re-located, if the parties do not agree, without leave of the Board.

Kammerer v. Canadian Pacific Ry. Co., 21 Can. Ry. Cas., 74; Canadian Pacific Ry. Co. v. Vancouver Ice & Cold Storage Co., 23 Can. Ry. Cas. 1, referred to.

The facts are fully set out in the judgment of Mr. Commissionner McLean, February 14, 1918, concurred in by the Assistant Chief Commissioner and Commissioners Goodeve and Boyce. *23 Can. Ry. Cas., 5.*

LYONS FUEL & SUPPLY CO. *v.* ALGOMA CENTRAL & HUDSON BAY RAILWAY COMPANY.

The Board will give no effect to a contract fixing a toll so unreasonably low and so out of proportion to the general scale, that it constitutes in effect unjust discrimination in favour of one shipper as against other shippers on the respondent carrier's line. The Board ordered the respondent to remove such unjust discrimination by filing tariffs providing for a fair and reasonable toll.

The facts are fully set out in the judgment of Mr. Commissioner Goodeve, February 26, 1918, concurred in by the Chief Commissioner and Mr. Commissioner Boyce. *23 Can. Ry. Cas., 146.*

IRISH & MAULSON v. BELL TELEPHONE COMPANY.

Where the telephone service in connection with which publication by listing in the telephone directory is asked is not of the private branch exchange line, but of the separate residential ones, and entirely distinct from the contract covering the private branch exchange service, the service asked for is a distinct one, and is subject to the separate listing toll.

The fact are fully set out in the judgment of Mr. Commissioner McLean, March 5, 1918, concurred in by the Assistant Chief Commissioner and Mr. Commissioner Boyce. *23 Can. Ry. Cas., 19.*

COMPLAINT OF THE WALKERTON EGG & DAIRY COMPANY, WALKERTON, ONT., AGAINST THE CANADIAN AND DOMINION EXPRESS COMPANIES.

Complaint was made to the Board by the Walkerton Egg & Dairy Company, of Walkerton, Ont., per Messrs. Robertson & McNab, against the Canadian and Dominion Express Companies overcharging five cents on each can of cream shipped from stations where the express companies have no collection and delivery service.

By the Board's Order No. 14594, of August 21, 1911, clause 1, sub-clauses (*a*) to (*c*) inclusive, provided as follows:—

> "(*a*) The above charges include the delivery of filled cans and the collection of empties for the dealer at all points where the express company furnishes a collection and delivery service for other goods.
>
> "(*b*) In the case of shipments by a dealer, if filled cans are collected by an express company and shipped to a place where the said company does not furnish a collection and delivery service, or any kind of goods the above charges will apply.
>
> "(*c*) In places where a collection and delivery service is not furnished by the express company, the charges, except as in subsection (*b*) shall be 5 cents per can less than the above rates."

These provisions, subject to the inclusion of the name of the specific express company concerned, are set out in the special local cream tariffs of the express companies issued as a result of this Order, e.g., the Dominion Express Company's Tariff C.R.C. No. 4405, effective March 9, 1914.

The application as made refers to rule 2 of the express tariff, rules 1 to 3, inclusive, of the tariff embody the provisions set out in sub-clauses (*a*) to (*c*), inclusive, above referred to.

The contention was:—

> "The express company does furnish a "collection and delivery service" in Walkerton, but they receive cream which is shipped here from a number of places where the express company has not a collection and delivery service; nevertheless the Walkerton Egg & Dairy Company have been paying the full rate for several years.
>
> "They contend that clause 2 does not apply to these cases because there is a collection and delivery service at Walkerton to where the cream is shipped, but none at the place at which the cream is delivered for shipment to them."

Held, Commissioner McLean in his judgment, March 5, 1918, concurred in by Assistant Chief Commissioner Scott, Deputy Chief Commissioner Nantel, and Commissioners Goodeve and Boyce, that where there is a collection service at the initial point or delivery service at the terminal point, which latter service *ipso facto* obligates the express company to give a collection and delivery service for the cream dealer, the inclusive charge applies; that where there is no collection at the point and no delivery and collection at the terminal point, then the deduction is provided for.

SESSIONAL PAPER No. 20c

WALLACEBURG CUT GLASS WORKS V. CANADIAN FREIGHT ASSOCIATION.

Two L.C.L. classification ratings will not be granted on the same commodity differing in value. Where a C.L. classification rating from Wallaceburg, a manufacturing centre, to Winnipeg was voluntarily put in by the carriers, it is only reasonable that similar commodity tolls should be given from Wallaceburg to Toronto and Montreal, similar distributing centres in the east.

(*Ledoux Co. v. Canadian Freight Association 12 Can. Ry. Cas., 3,* distinguished.)

The facts are fully set out in the judgment of the Assistant Chief Commissioner, concurred in by Mr. Commissioner Boyce, March 9, 1918. *22 Can. Ry. Cas., 408.*

IN *re* APPLICATION FOR CANCELLATION OF CLAUSE IN ORDER BILL OF LADING PROVIDING FOR INSPECTION OF GOODS.

This was an application for cancellation of the clause in the Order bill of lading approved of by the Board providing that the inspection of goods covered by the bill of lading would not be permitted unless provided by law or unless permission was endorsed on the original bill of lading or given in writing by the shipper.

It was pointed out that the existing bill of lading was approved by the Board after it had been taken up and gone over carefully, clause by clause, by representatives of shippers, financial institutions and railway companies.

Held, Assistant Chief Commissioner Scott in his judgment, March 13, 1918, concurred in by Commissioners McLean and Goodeve, that the present arrangement should not be disturbed, it having been the practice in commercial transactions for many years, and business houses, banks and other financial institutions having recognized and being familiar with the practice. The application was accordingly dismissed.

"IN RE" GRAND TRUNK AND QUEBEC, MONTREAL AND SOUTHERN RAILWAY COMPANIES.

The Board has no jurisdiction under section 364 (3) to dispense with the sanction of the Governor-in-Council required by section 364 (2), but can only recommend for such sanction a traffic agreement, properly brought before it, of which it approves. The Board has jurisdiction to dispense with conditions as to consent of shareholders, advertising in local papers and other conditions as to procedure in bringing the matter properly before the Board.

The facts are fully set out in the judgment of Mr. Commissioner Boyce, March 14, 1918, concurred in by the Assistant Chief Commissioner and Mr. Commissioner McLean. *23 Can. Ry. Cas., 101.*

COAL RATES.—FILE NO. 25547.14.

Judgment Chief Commisioner Drayton, March 15, 1918, concurred in by Assistant Chief Commisioner Scott and Commissioner McLean.

This is a complaint from municipalities and users of coal in what is generally referred to as the Waterloo County group. The city of Guelph also joins in the complaint. A hearing has taken place, and the matter has stood pending a final decision in the advanced rates case.

The whole question of coal rates is very difficult to adjust properly in the district of Western Ontario, in view of the obvious water competition open to towns on the lakes.

The complexity of the situation is in part covered by the judgment in the Eastern Rates, pp. 178-187. In view of the fact that the whole situation is so much covered in that case, I do not deem it advisable to give further grounds, but would simply adopt the report of Mr. Hardwell, the Board's chief traffic officer, in which I fully concur.

As a result of adopting the report, the different municipalities are placed on as close a basis of parity one with the other as, in my opinion it is possible to obtain.

Mr. Hardwell's report reads:—

"On the assumption that the new tariffs become effective on the 15th instant, I now beg to report as follows:—

"The increase of 15 cents per ton in the Galt rate, raising it from 88 cents to $1.03 per ton, affords a basis for realignment. Having regard to the rate to Brantford, which was the real origin of the subsequent difficulties as explained at page 182 of the Eastern Rates Judgment, I would not change this new Galt rate. Galt is not one of the complainants.

"Preston and Hespeler formerly had the Galt rate, but were advanced to 5 and 7 cents above Galt; distances 4·1 and 7·4 miles respectively. I would now restore them to the Galt group.

"Guelph is 16·2 miles from Galt, and formerly took the same rate; but the judgment placed it at 11 cents over Galt. I would reduce this difference to 5 cents, so as to make the new rate $1.08 instead of $1.14.

"I am unable to see my way to recommending any change to Kitchener. It is true that it also enjoyed the same rate as Galt, although the extra mileage 27·7. Both judgments place it at 11 cents higher, the new rate being $1·14. Were this reduced, the same rate to Stratford would necessarily also have to be reduced, Stratford being 8 miles nearer Black Rock, as well as to the intervening towns of Petersburg, Baden, New Hamburg, and Shakespeare and the reduction would be reflected to St. Mary's and thence to London.

"Again, Woodstock has an advantage in distance of 21 miles from Black Rock compared with Kitchener, so that as both have the same rate the same reduction would follow to Woodstock and Ingersoll, and here, also would be reflected to London.

"These examples show how the rates are inter-related and the extent to which the tariff structure would be affected if all the requests were granted.

"Waterloo is but one mile branch line distance from Kitchener and has always had the Kitchener rate. The new tariff continues this arrangement.

"Elmira is 10 miles beyond Waterloo and is the terminus of the branch. Its rate was formerly 10 cents over Waterloo, and the new tariff makes the difference 11 cents, but the change is so slight that I do not consider that the tariff should be interfered with, particularly as the Canadian Pacific's Goderich branch would be affected, not to speak of Fergus and Elora which are in the same territory and with distances from Black Rock in their favour.

"Adjudication must, in my opinion, take locations and distances into account, without undue regard to past voluntary practice. Clearly, also, the purpose of the last judgment of the Board should be kept in view, and the extent to which that purpose would be voided by the ramifications I have referred to. That with the exception of Guelph the complaining centres are all in the County of Waterloo has, I submit, no practical bearing on rate making.

"As regards the competition between the towns in this Waterloo County group and the argument for equality of rates throughout, the reminder is not needed that this Board and the Interstate Commerce Commission have repeatedly held that it is not the province of regulation to require commercial equality to the disregard of distances and routes.

"It was contended that the distance to Kitchener should be reckoned over the 15th District through Blair and Doon as if the Grand Trunk had bridged the Grand River at Galt, but that branch has no connection with the main line at Galt, the traffic moving over the 22nd district through Preston to Guelph Junction, and thence west to Kitchener.

"I should mention that many of the distances quoted by complainants are those from Suspension Bridge; but, as the Board is aware, the great bulk of the coal movement is through Black Rock.

"The following table tells the whole story. The mileages are from Black Rock. The column headed "Old" gives the rates which preceded the Eastern Rates Judgment, the 'E.R.C.' column the rates of that judgment, and the column headed "15 cents," the 15 cents per ton increase recently granted. The last column shows the rates herein recommended to the disputed destinations underlined:—

To—	Miles.	Old. Cents.	E.R.C. Cents.	15 Cents. Cents.	Cents.
Brantford	74	70	77	92	—
Galt	92	90	88	103	103
Preston	96	90	93	108	103
Hespeler	99	90	95	110	103
Guelph	108	90	99	114	108
Georgetown	93	80	88	103	—
Kitchener	120	90	99	114	114
Stratford	112	90	99	114	—
Woodstock	99	90	99	114	—
Waterloo	121	90	99	114	114
Elmira	131	100	110	125	125
Elora	120	100	110	125	—
Fergus	123	100	110	125	—

Orders to go accordingly.

"RE" EXPRESS RATES ON FISH.

It appeared that the Dominion Express Company had in the past made deliveries of fish by cartage to consignees. By Suplement 11 to Tariff C.R.C. No. 4416 and Supplement 5 to Tariff C.R.C. No. 4437, effective January 15, 1916, the company sought to cancel all cartage delivery applying to fish moving in carload lots from the Atlantic and the Pacific.

The Board, by Order of suspension numbered 24628, suspended these supplements, with the result that the company has been forced to continue delivery of fish as in the past.

The company seeks to sustain its action in cancelling delivery, in view of the following facts:—

1. That the rates from the Pacific to eastern cities are extremely low, and were rates forced by competition.

2. That these rates, competitive as they are, compare with rates in American territory which do not include the cartage delivery service for fish moving in carload lots.

3. That it was never intended by the express companies to make cartage deliveries of fish handled in carload lots.

Held, Chief Commissioner Drayton in his judgment, March 15, 1918, concurred in by Assistant Chief Commissioner Scott, Deputy Chief Commissioner Nantel and Commissioner Goodeve, that the suspensions under the Board's Order No. 26428 suspending the supplements in question be made absolute.

COMPLAINT OF THE WEST VIRGINIA PULP & PAPER COMPANY, AND OTHERS, "RE" RATES ON PULPWOOD.

This was a complaint filed with the Board by the West Virginia Pulp & Paper Company, requesting that an Order be issued disallowing, in so far as rates to Mechanicville, N.Y., were concerned, C.P.R. Tariff C.R.C. No. E-2847, effective September 10, 1914, and supplement thereto No. 7, effective November 1, 1915 (repeated in the

supplement 12 referred to in the application), applying on pulpwood from C.P.R. points to various United States destinations, principally in eastern New York State.

Subsequently, by supplement 15, issued July 28, to take effect September 1, 1916, the rates were increased 1 cent per 100 pounds from the territory west of Montreal taking the routes via Ottawa or St. Polycarpe Junction, thence G.T.R. to Rouses Point, N.Y., where a connection is made with the Delaware & Hudson R.R.

Order No. 25262 issued August 16, 1916, suspending the last mentioned supplement on the application of the West Virginia Pulp & Paper Co., the Ticonderoga Pulp & Paper Co. of Ticonderoga, N.Y., and the New York & Pennsylvania Co., of Willsboro, N.Y., these two points, with Mechanicville, being, it was stated, practically the only Delaware & Hudson points taking Canadian pulpwood. The Montain Lumber Co., of New York, subsequently intervened as complainants.

The present application is complementary to the decision of the Board in *International Paper Co. v. G.T.R., C.P.R., and C.N.R. Cos., 15 C.R.C., 111.* That case was concerned with export rates on pulpwood from the territory east of what is involved in the present application It was there recognized that the area in question was one in which water competition had exercised a serious influence on rates. It was further recognized that with the lessening of water competition the railways were within their rights in bringing the rates up more closely to the normal conditions.

Held by Commissioner McLean in his judgment, March 16, 1918, concurred in by Chief Commissioner Drayton, Assistant Chief Commissioner Scott, Deputy Chief Commissioner Nantel and Commissioner Goodeve, that considering what had been approved with respect to analogous commodities in single-line movements, the rates on other forest products, and also the fact that, having regard to the pulp and paper products, the Canadian Pacific and Grand Trunk companies have no re-shipment advantages and revenues accruing therefrom, the increase of 1 cent as provided for in supplement No. 15 was not unreasonable.

Held, further, that in view of the time that had elapsed in connection with the suspension of the tariffs referred to, the parties applicant had had ample notice of the effect of the tariffs; and that the movement concerned being an international one, the filing requirements of the Interstate Commerce Commission had to be recognized. Held, further, that subject to the requirements of the Interstate Commerce Commission in this respect, revised tariffs might be filed with the Board within fifteen days from the date of the Order. *23 Can. Ry. Cas. 153.*

CANADIAN RUBBER MANUFACTURERS *vs.* CANADIAN FREIGHT ASSOCIATION.

It would be unjust discrimination to authorize the shipment of rubber boots and shoes in mixed carload lots at third class tolls in competition with manufacturers who have not the same privilege of mixing their leather or felt boots with other leather or felt commodities which are entitled to the same classfication in C.L. lots.

C.L. tolls are only given for the purpose of mixing on account of the varied nature of the goods that can be mixed.

Solid rubber tires with a minimum weight of 24,000 pounds, and pneumatic rubber tires with a minimum weight of 16,000 pounds, were both rated third class.

The facts are fully set out in the judgment of the Assistant Chief Commissioner, March 20, 1918, concurred in by Commissioners McLean, Goodeve and Boyce. *23 Can. Ry. Cas., 50.*

NANAIMO BOARD OF TRADE V. CANADIAN PACIFIC RAILWAY COMPANY.

It is the duty of a rail carrier in the interests of the shippers to take the shorter, more direct, more economical traffic movement route, but since under the present toll situation the whole of the economy is obtained by the rail carrier, the mileage via the

Ladysmith transfer ought to be reduced to the mileage via the Esquimalt transfer to Nanaimo, and the mileages of stations served by the Ladysmith transfer reduced in the same manner plus the mileage from Ladysmith to destination.

The main question in this case relates to the terminal toll which represents the toll quoted from points in eastern territory to those in western and vice versa, where the movement is open by water, or where the distance from water is so short that the combination rail and water toll is lower than the regular all rail toll, the Board has invariably held that carriers, in their discretion, may or may not meet water competition or competition of any form, and may elect to attempt to get business at small remuneration or do without it altogether, subject to the qualification that when competition is met the competitive toll should be extended to all points in a common district where similar operating and traffic conditions obtain. The volume of traffic moving by water into Nanaimo being very small as compared with that into Victoria, conditions are dissimilar, there is no unjust discrimination.

Nanaimo Board of Trade v. Canadian Pacific Ry. Co., 20 Can. Ry. Cas., 224, reheard and affirmed; *British Columbia News Co. v. Express Traffic Association, 13 Can. Ry. Cas., 176; Midland Lumber Shippers v. Grand Trunk Ry. Co., (Pine Lath Refund Case) 22 Can. Ry. Cas., 387,* followed.

The facts are fully set out in the judgment of the Chief Commissioner, March 25, 1918, concurred in by Mr. Commissioner Goodeve. *23 Can. Ry. Cas., 92.*

COMPLAINT OF R. W. HANNAH, OF TORONTO, "RE" REFUSAL OF GRAND TRUNK RALWAY COMPANY TO APPLY SPECIAL MILEAGE TARIFF RATES ON POTATOES.

Complaint was made to the Board by R. W. Hannah, of Toronto, Ont., that the Grand Trunk Railway Company refused to apply its special mileage tariff rates on potatoes between its stations on shippers' circuitous routing. Under G.T.R. tariff C.R.C. No. E-3642, rates are quoted on potatoes and flax seed. The tariff provides that the rates as given apply "in straight carloads only, mileage basis to be used where specific rates in force". Manifestly there is a clerical error and this should read "where specific rates are not in force". The tariff sets out rates for mileages up to 500 miles. The tariff is also limited in scope to movements between Grand Trunk stations; and it is provided that between common points the competing railways' mileage will apply if shorter than distance by the Grand Trunk.

It was contended in substance by the railway that the tariff while quoted, in miles, is in effect a station to station tariff always based on the shortest mileage. The applicant contended that he had a right to a rate on the actual distance moved, regardless of whether it was the shortest distance between the two points concerned.

Held, Commissioner McLean in his judgment, March 27, 1918, concurred in by Assistant Chief Commissioner Scott and Commissioner Goodeve, that in order to obtain advantage of the stop-off arrangement, the shipper must comply with the provisions of Tariff C.R.C. E-2374; that the direct mileage Hawkestone to Montreal is 357 miles, and that the through rate was 20½ cents; that for the out of line haul of 55 miles there was a charge of 2¾ cents, while for the "stop-off" there was a charge of 1 cent; that the combination thus applying was 24¼ cents instead of the 25 cents claimed by the applicant. *24 Can. Ry. Cas. 123.*

Re APPLICATION OF THE LONDON & PORT STANLEY RAILWAY COMPANY TO INCREASE STANDARD PASSENGER TARIFF.

This was an application made to the Board by the London & Port Stanley Railway Company for authority to increase its standard passenger tariff from 2½ cents per mile to 3 cents per mile, and its standard freight tariff by 15 per cent. The Application involved the extension of the advance allowed by the Board on the application of the railways operated by steam for a general advance in rates to the electric lines.

No electric railway was party to that application, and the judgment of the Board did not deal with rates on electric lines as such. And this for very good reason—not only was no application made for an increase, but one of the greatest items of increased cost, namely, the item of coal, is entirely lacking in electric railways operated with hydraulic power. The present applicant operates with Hydro power.

Some of the electric railway companies have, since the recent advance was allowed the steam lines, filed tariffs making similar advances in their rates. These tariffs have been disallowed by the Board until the necessities of the electric lines were established.

The London & Port Stanley Railway Company has since filed its application, and has submitted data reflecting its increased costs and the effect that the increased cost schedule has had upon its operations.

No other electric railway line in Eastern territory has as yet submitted to the Board evidence on which an increase of rates could be justified.

While the London & Port Stanley Railway does not apply on behalf of itself and all other electric railway companies, that company, operating as it does in a densely populated part of the province, and being without unprofitable mileage confining its operations between terminals already developed, could well be taken as an electric line which should show in the highest degree, having regard to the character of its equipment, the economies of electric railway operation.

The manager and treasurer of the company, which is operated for the city of London by a commission, has filed statements showing the increase in the rate of wages of conductors, motormen, and train men, as between July 1, 1915, and January 1, 1918, amounting to an average increase of 33·421 per cent. Increases approximating a similar percentage advance are shown to be typical and applicable to most of the employees.

Comparative prices of supplies as filed by the London & Port Stanley Railway Company show a state of affairs practically the same as the Exhibits filed by the steam railway companies in their case, the percentage increase being very heavy, in some instances, take for example rails, running as high as 166·363 per cent.

The commission however, does show that it has in the past earned its fixed charges on the old rates, but it is insisted by it that the city is entitled to a greater return than one quarter of 1 per cent dividend on the monies invested in the electrification scheme.

Held, Chief Commissioner Drayton in his judgment, March 28, 1918, concurred in by Commissioner McLean, that the figures and statements submitted by the applicant company made absolutely clear their necessity for greater revenue, assuming always that the railway is to be treated as a commercial venture and to be maintained without loss to the London ratepayer, either in connection with its operations, or what in the long run is much worse, depletion of the property assets owing to undue economies and scamped maintenance.

Held, further, that the increases awarded should be temporary and only to apply while the present abnormal and excessive costs prevail.

Held, further, that similar relief would be extended to any other electric line that satisfied the Board that its operation and financial condition were such as to require relief. *24 Can. Ry. Cas.*

APPLICATION OF THE CITY OF VICTORIA AND THE ATTORNEY GENERAL OF THE PROVINCE OF BRITISH COLUMBIA "RE" ACCESS OVER THE ESQUIMALT AND NANAIMO RAILWAY BRIDGE.

This was an application made by the municipal council of the city of Victoria and of the attorney general of the province of British Columbia for a declaration from the Board as to the rights of the city to access over the Esquimalt and Nanaimo Railway bridge across a portion of the Victoria harbour; and the application of the Esquimalt and Nanaimo Railway Company for approval of plan showing proposed replacement of Victoria swing bridge, Victoria harbour, B.C.

The application was previously before the Board at a sittings held in Victoria on Tuesday, June 5, 1917. The case was not then concluded, but council were given the liberty of filing further submissions, having regard to the liability of the railway company as alleged by the city on the one hand, and the jurisdiction of the Board to consider the complaint on the other.

In addition to this, the matter seeming to be one eminently for adjustment between the parties rather than a matter which could be dealt with at the time under an Order of the Board, directions were given that the parties should confer and endeavour to come to a compromise. The question of the liability of the railway company in respect of the bridge—the subject matter of the complaint—has been brought before the Board on other occasions.

Negotiations have taken place, but, the parties having failed to arrive at any adjustment, the city is desirous that the matter should be dealt with by the Board without further delay.

Not only is the application an unusual one, but is attended by very unusual circumstances. The tracks of the Esquimalt and Nanaimo Railway Company enter the city of Victoria by means of a swing bridge constructed from the then Indian reserve across a portion of the Victoria harbour to the property of the railway company in the city and constituting the company's terminals.

The bridge was built by the railway company under the authority of an Order in Council approved August 26, 1887, reading as follows:—

> "The committee of council have had under consideration an application of Mr. R. Dunsmuir, on behalf of the Esquimalt and Nanaimo Railway Company, for the approval of the plan and description of a certain swing bridge proposed to be constructed across a portion of Victoria harbour, B.C., on the line of the said railway, to accommodate both railway and highway traffic."
>
> "The Minister of Public Works, to whom the said application was referred, reports:—
>
> "That the bridge will to a certain extent hinder the free use of the upper portion of the harbour, which, however, is not of such importance as the lower portion;
>
> "That it appears, by a resolution passed by the municipal council of Victoria, that there is not any objection on the part of the civic authorities to the construction of the bridge, on the proposed site;
>
> "That the harbour of Victoria is, owing to a want of depth, only available for vessels of comparatively small size and draught;
>
> "That the site selected by the company for the bridge leaves the best portion of the harbour free and accessible at all times for such vessels and craft as can enter;
>
> "That the bridge will not obstruct in any way the use of that portion of the harbour; and
>
> "That he sees no objection to its being built inasmuch as a proper draw has been provided for."
>
> "The Minister of Public Works therefore recommends that permission be granted to the Esquimalt and Nanaimo Railway Company to build a railway and highway bridge across a portion of Victoria harbour, B.C., as per plan hereto annexed."
>
> "The committee concur in the foregoing report of the Minister of Public Works and submit the foregoing recommendations for your Excellency's approval."

The plan annexed to the Order in Council and approved thereby allowed the construction of a bridge similar to the bridge which has in fact been erected. In its caption it is headed:—

ESQUIMALT & NANAIMO RAILWAY, B.C.

"PLAN OF PROPOSED SWING BRIDGE ACROSS VICTORIA HARBOUR."

The bridge section shows, in the first instance, an 18-foot space in which is shown a single track line of railway and extensions 4 feet in width on either side.

The city in the present application, contends that the railway company became bound to construct a railway, foot, and vehicular bridge, which were to be free to the public forever and to bring the terminus of the railway within the limits of the municipality.

The city claims, in the first instance, that the company is so bound by agreement; and, in the second instance, that it is bound by estoppel.

No agreement whatever was produced, but the city has put in evidence the following resolution of the city council passed at its meeting held on June 29, 1887:—

> "Whereas this council has heard with pleasure the report of his worship the mayor to the effect that Mr. Dunsmuir, president of the Esquimalt & Nanaimo Railway Co., has announced that it is the intention of his company to construct across the harbour of Victoria a railway, foot, and vehicular bridge which shall be free to the public forever and to bring the terminus of the said railway within the limits of this municipality."
>
> "Be it therefore resolved that the thanks of this council be tendered the railway company, through Mr. Dunsmuir, for their liberality and that we are of the opinion that the extension of the line to Victoria will confer a great boon on the citizens thereof."
>
> "Resolved that a copy of this preamble and resolution be transmitted to the Dominion and provincial Governments and the president of the Esquimalt & Nanaimo Railway."
>
> "Seconded by councillor Pearce and carried."

And copy of letter sent to the Hon. Robt. Dunsmuir, July 6, 1887, by the proper civil officials reading as follows:—

> "I am directed by his worship the mayor, to enclose for your information, copy of a resolution passed at a regular meeting of the municipal council of this city on the 29th ultimo"—(The resolution is then set out).

Similar letters were at the same time sent to the Honourable the Minister of Public Works, at Ottawa, and to the provincial secretary, at Victoria.

The above resolution is doubtless the resolution which is referred to in the Order in Council as above set out.

Held, Chief Commissioner Drayton in his judgment, March 30, 1918, concurred in by Assistant Chief Commissioner Scott, Commissioners Goodeve and Boyce, that jurisdiction could not successfully be established in the Board, and that the matter was, therefore, entirely one for the Department of Public Works to deal with.

Held, further, that if there was jurisdiction, the plan actually approved by the Order in Council was a plan with but 18 feet space for railway occupation; and that there was no space provided for a vehicular highway, and the ever-ruling interest of public safety of itself would entirely negative the possibility of an Order allowing vehicles to use in common the piece of the bridge in question with the railway.

Held, further, that before any Order could be made by the Board the plans of the new structure would have to be submitted to the Department of Public Works to enable that Department to satisfy itself as to the necessities of navigation at the present time.

(7 Can. Ry. Cas. 14).

SESSIONAL PAPER No. 20c

COMPLAINT OF THE SWIFT CANADIAN COMPANY, LIMITED, OF WINNIPEG, MAN., *re* ALLOWANCE ON BOX CARS.

This was a complaint concerned entirely with the Canadian Pacific's local movement from the Union Stock Yards at St. Boniface, Man., to the Swift Canadian Company's packing-house on the east side of the Red River in the district known as Elmwood.

Supplement 1, effective May 21, 1917, to C.P.R. Switching Tariff C.R.C. No. W. 2251, of April 17, 1917, (both in effect when the hearing was held, although Mr. Ingram's quotations were from the previous tariff) shows a rate of 1 cent per 100 pounds minimum $5 per car, on livestock from the Union Stock Yards to abattoirs situated on the C.P.R. tracks and C.P.R. stock yards at Winnipeg. It is obvious that what is really meant is a flat $5 per car rate, since no carload of stock would weigh 50,000 pounds.

If stock cars are not available and box cars are substituted, the railway agent must have some unit of measurement in order to prevent more animals being shipped than could have been loaded in stock cars for the same charge; hence the provision in the company's Special Tariff of Rules and Regulations, C.R.C. No. W2139, quoted by Mr. Ingram, as follows:—

> "Whenever through shortage of stock cars for carload shipments of cattle and horses, the car service department finds it necessary to supply box cars in lieu thereof, a sufficient number of box cars may be supplied to furnish carrying capacity equivalent to the number of stock cars ordered, at the minimum weights for stock cars required, actual weight if greater."
>
> "In applying above authority, agents will use following scale as mixiumum carrying capacity of stock car and draw way-bill for each stock carload accordingly:—
>
> *Cattle.*—Beef cattle, 18 head. Yearlings, 35 head. Two-year olds, 26 head. Mixed cars of cattle of different ages (including cows), 22 head.
>
> *Horses.*—Heavy, 17 head; medium, 19 head; light, 22 head.
>
> Box cars in accordance with above will only be supplied on specific authority of the car service department, reference to which will be noted on way-bills.
>
> Agents must show clearly on way-bills what cars were ordered by shippers and what cars supplied, such as—"one stock car ordered, two box cars supplied."

The arrangement above set out as to equivalent carrying capacity is stated by the railway to have been in operation for some twenty years, under an arrangement with western livestock shippers.

During the period extending from October 26 to November 4, and owing to the inability of the railway to supply livestock cars for the intra-terminal movement concerned, the applicant had to use 71 box cars in the movement of cattle.

Held, Commissioner McLean in his judgment, April 3, 1918, concurred in by Chief Commissioner Drayton, that the arrangement in respect of supplying equivalent box car capacity where live stock cars are not available no longer applies on switching movements, that it was abolished by the provisions of Item 85 of C.R.C. No. W. 2250, which was effective before the date of the hearing but was not referred to at the hearing; that the tariff under which application was made was explicit as to the 18 head basis. Had the Board been of opinion that 15 head was the proper basis on a switching movement, then that this could only have been a direction for amendment of tariff as to the future; and that the Board could not have made it retroactive. Held further that as the tariff no longer permits as to switching movements—what is involved in the complaint—that there is nothing on which to rule in connection with the application as launched.

APPENDIX "B".

REPORT OF CHIEF TRAFFIC OFFICER, J. HARDWELL.

SIR,—I have the honour to submit, for the Thirteenth Annual Report of the Board, a memorandum of the freight, passenger, express, telephone, telegraph and sleeping and parlour-car schedules filed with the Board from November 1, 1904, when, by Order of the Board, under the authority of section 311 of the Railway Act, 1903, the railway companies commenced filing their tariffs, to March 31, 1917; and from April 1, 1917, to March 31, 1918, inclusive; also, of the more important orders relating to traffic issued by the Board to March 31, 1918:—

SCHEDULES received from November 1, 1904, to and including March 31, 1917.

[illegible]			
[illegible]	10,687		
Supplements..	27,204		
		37,891	
[illegible]	25,364		
Supplements..	69,657		
		95,021	
International tariffs..	102,055		
Supplements..	298,859		
		401,914	
			530,826
[illegible]	10,628		
Supplements..	12,843		
		23,471	
Joint tariffs..	7,294		
Supplements..	12,556		
		19,850	
International tariffs..	16,717		
Supplements..	31,125		
		47,842	
			91,163
[illegible]			
Local tariffs..	5,046		
Supplements..	52,747		
		57,793	
Joint tariffs..	3,990		
Supplements..	12,558		
		16,548	
International tariffs	2,173		
Supplements..	1,198		
		3,371	
			77,712
Telephone—			
Local tariff	1,047		
Supplements	1,103		
		2,150	
Joint tariff	2,276		
Supplements..	7,146		
		9,422	
International tariffs..	429		
Supplements..	7,904		
		8,333	
			19,905
Sleeping and Parlour Car—			
Local tariff	81		
Supplements	102		
		183	
Joint tariffs..	45		
Supplements	97		
		142	
International tariffs..	110		
Supplements	301		
		411	
			736

SESSIONAL PAPER No. 20c

SCHEDULES received from November 1, 1904, to and including March 31, 1917.—*Con.*

Telegraph—			
Tariffs	134		
Supplements	144		
		278	
			278
Combined totals, all schedules			720,606

SCHEDULES received from April 1, 1917, to and including March 31, 1918.

Freight—			
Local tariffs	897		
Supplements	1,810		
		2,707	
Joint tariffs	1,342		
Supplements	6,596		
		7,938	
International tariffs	3,079		
Supplements	28,153		
		31,232	
			41,877
Passenger—			
Local tariffs	1,176		
Supplements	2,034		
		3,210	
Joint tariffs	1,491		
Supplements	2,604		
		4,095	
International tariffs	1,896		
Supplements	5,580		
		7,476	
			14,781
Express—			
Local tariffs	52		
Supplements	1,123		
		1,175	
Joint tariffs	934		
Supplements	225		
		1,159	
International tariffs	498		
Supplements	24		
		522	
			2,856
Telephone—			
Local tariffs	583		
Supplements	87		
		670	
Joint tariffs	52		
Supplements	2,566		
		2,618	
International tariffs	0		
Supplements	1,100		
		1,100	
			4,388
Sleeping and Parlour Car—			
Local tariffs	18		
Supplements	11		
		29	
Joint tariffs	7		
Supplements	13		
		20	
International tariffs	29		
Supplements	64		
		93	
			142
Telegraph—			
Tariffs	6		
Supplements	6		
		12	
			12
Combined totals, all schedules			64,056
Grand total			784,656

SUMMARY OF TRAFFIC ORDERS OF GENERAL INTEREST ISSUED DURING THE YEAR ENDED MARCH 31, 1918.

General Order No. 186, April 4, 1917.—Prescribes minimum loads for grain and grain products carried at carload rates.

No. 26006, April 10, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Fort Coulonge Rural Telephone Company, operating in the county of Pontiac, Que.

No. 26007, April 10, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the corporation of the township of Sandwich South, operating in the county of Essex, Ont.

No. 26010, April 14, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Lyndhurst Rural Telephone Company, operating in the county of Leeds, Ont.

No. 26029, April 16, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Bromley Telephone Association, operating in the county of Renfrew, Ont.

No. 26030, April 18, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Wolftown Telephone Association, operating in the county of Renfrew, Ont.

No. 26032, April 17, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Madawaska Telephone Association, operating in the county of Renfrew, Ont.

No. 26066, May 1, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Muskrat Lake Telephone Company, operating in the county of Renfrew, Ont.

No. 26091, May 8, 1917.—Fixes the basis of freight rates on potatoes from points in the Maritime Provinces to destinations in Quebec and Ontario.

No. 26114, May 16, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Lavant-Dalhousie Telephone Company, operating in the county of Lanark, Ont.

No. 26117, May 16, 1917.—Requires the Grand Trunk Pacific and Canadian Pacific Railway Companies to assist the Canadian Northern to relieve grain congestion in the Goose Lake district by furnishing their cars for eastward joint movement, via Saskatoon, at the same rates as if handled direct by the Canadian Northern.

No. 26120, May 11, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Adamston Rural Telephone Association, operating in the county of Renfrew, Ont.

No. 26128, May 19, 1917.—Approves Tariff C. R. C. No. 1 of the Western Canada Telephone Company, of Vancouver, providing tolls at the Belmont Rural Exchange.

No. 26134, May 18, 1917.—Approves an agreement between the Western Canada Telephone Company and the British Columbia Telephone Company, both of Vancouver.

No. 26136, May 22, 1917.—Approves Standard Maximum Freight Mileage Tariff C. R. C. No. 25 of the Moncton & Buctouche Railway.

No. 26138, May 23, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the British American Nickel Corporation, operating in the district of Sudbury, Ont.

No. 26139, May 22, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the corporation of the township of St. Vincent, operating in the county of Grey, Ont.

General Order No. 189, May 23, 1917.—Requires the amendment of the so-called "follow lot" rule No. 3 of Canadian Freight Classification No. 16.

General Order No. 190, May 25, 1917.—Requires the amendment of Canadian Freight Classification No. 16 to provide a carload rating for ice-cream cones, of third-class, with a minimum of 16,000 pounds per car.

General Order No. 191, May 26, 1917.—Approves an addition to rule No. 23 of the Regulations Governing Baggage-car Traffic in Canada in case of immigrants' baggage.

General Order No. 192, May 30, 1917.—Disallows application of the railway companies for increased charges for ice supplied to refrigerator cars, and approves the charges proposed for salt supplied to such cars for further lowering the temperature in combination with the ice.

No. 26185, June 5, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Chippawa Hill Telephone Company, operating in the county of Bruce, Ont.

No. 26186, June 5, 1917.—Requires the Grand Trunk and Niagara, St. Catharines & Toronto Railway Companies to provide interswitching facilities between their respective railways at Thorold, Ont.

No. 26194, June 6, 1917.—Approves Canadian Pacific Special Tariff C. R. C. No. 3299, providing charges for pedigree live stock, when shipped by the Department of Agriculture of Ontario.

General Order No. 194, June 6, 1917.—Permits the express companies to amend the express classification for Canada by increasing the conventional weight on which charges are assessed for the carriage of horses, in carloads, from 10,000 pounds to 12,000 pounds per car.

No. 26196, June 6, 1917.—Requires the express companies to deliver goods to the plant of the British Munitions Company, Limited, which is outside of the regular cartage limits at Montreal.

No. 26200, June 8, 1917.—Authorizes the Ottawa and New York Railway to connect its track with that of the Grand Trunk Railway at or near the city of Ottawa, for the interchange of freight traffic.

No. 26206, June 11, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Northcote Farmers' Telephone Company operating in the county of Renfrew, Ontario.

No. 26207, June 11, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and La Société Co-Opérative de Telephone de St. Marc, operating in the county of Vercheres, Que.

No. 26208, June 11, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and Le Telephone de St. Sebastien d'Iberville, operating in the counties of Iberville and Missisquoi, Que

General Order No. 195, June 23, 1917.—Railway companies to require their cartage agents to limit their charges to the actual weight of the goods carted, subject to the minima provided in the approved Canadian Freight Classification.

No. 26251, June 25, 1917.—Requires the Canadian Northern Railway to readjust its carload rates on newsprint and other paper from Jonquiere, Que., to points in the United States so as not to exceed the concurrent rates on the same commodities from Donnacona or Grand'Mere, Que., by more than 5 cents per 100 pounds.

No. 26262, June 28, 1917.—Approves Standard Maximum Freight Mileage Tariff C.R.C. No. 5 of the Salisbury and Albert Railway.

No. 26302, July 6, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Mond Nickle Company, operating in the district of Sudbury, Ont.

No. 26330, July 16, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and La Compagnie de Telephone de Weedon, operating in the county of Wolfe, Que.

No. 26337, July 16, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Hope Lumber Company's telephone system, operating in th district of Algoma, Ont.

No. 26353, July 16, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and La Compagnie de Telephone de Charlevoix et Saguenay, operating in the counties of Montmorency, Charlevoix and Saguenay, Que.

No. 26363, July 24, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Hoath Head and Grey Telephone Company, operating in the county of Grey, Ont.

No. 26364, July 24, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the corporation of the township of Chisholm, operating in the districts of Parry Sound and Nipissing, Ont.

No. 26365, July 23, 1917.—Disallows certain tariffs naming increased stop-over charges on canned goods and live stock in Eastern Canada.

General Order No. 200, July 26, 1917.—Amends Order No. 3249, dated June 29, 1907, by fixing the penalty of section 400, subsection 1 of the Railway Act to read at fifty percentum of the regular charge.

No. 26377, July 27, 1917.—Approves an agrement for the interchange of telephone services between the Bell Telephone Company and the Muskoka River Telephone Company, operating in the district of Muskoka, Ontario.

No. 26382, July 26, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the corporation of the township of Emily, operating in the county of Victoria, Ont.

General Order No. 201, August 1, 1917.—Approves new Car Demurrage Rules for use of railways in Canada subject to the jurisdiction of the Board.

General Order No. 202, August 2, 1917.—Permits railways to charge increased rates on grain and grain products east of and including Fort William, Ont.

General Order No. 203, August 11, 1917.—As amended by General Order 206, September 7, 1917, approves regulations for the transportation by freight service of dangerous articles other than explosives.

General Order No. 204, August 11, 1917.—Approves revised regulations for the transportation by freight service of explosives.

General Order No. 205, August 15, 1917.—Requires railway companies to stencil inches on the inside walls of cars used in grain traffic in the provinces of Manitoba, Saskatchewan and Alberta.

No. 26420, August 14, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Glengarry Telephone Company operating in the counties of Glengarry and Prescott, Ont.

No. 26470, August 27, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Hazeldean Rural Telephone Company, operating in the county of Carleton, Ont.

No. 26471, August 27, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Wright & Pontiac Telephone Company, operating in the counties of Ottawa and Pontiac, Que.

No. 26490, September 1, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Sydenham Union Telephone Company, operating in the county of Grey, Ont.

No. 26498, September 5, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Balsam Hill Telephone Company, operating in the county of Renfrew, Ont.

No. 26504, September 7, 1917.—Approves Standard Maximum Mileage Freight Tariff C. R. C. No. W-1025 of the Canadian Northern Western lines.

No. 26509, September 10, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Glenview Rural Telephone Company, operating in the county of Lanark, Ont.

No. 26511, September 10, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Wallingford Brothers, Limited, operating in the village of East Templeton, to points in the province of Quebec.

No. 26519, September 10, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Gore G. Telephone Company, operating in the county of Prince Edward, Ont.

No. 26547, September 20, 1917.—Prescribes a basis of through rates on woodpulp from manufacturing points in Canada to points in the United States.

No. 26548, September 19, 1917.—Railways to provide the same rates and minimum carload weights for fibreboard cheese boxes as for the wooden variety.

No. 26578, September 26, 1917.—Requires the Canadian Northern Railway to publish joint commodity rates on canned goods, in carloads, from its points in Prince Edward county to points west on the Grand Trunk and Canadian Pacific Railways.

No. 26589, September 29, 1917.—Approves Standard Maximum Mileage Freight Tariff C. R. C. No. 62 of the Edmonton, Dunvegan and British Columbia Railway.

No. 26611, October 5, 1917.—Approves Standard Maximum Mileage Freight Tariff C. R. C. No. 28 of the Quebec Oriental Railway.

No. 26641, October 12, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Monk Rural Telephone Company, operating in the county of Carleton, Ont.

No. 26642, October 16, 1917.—Canadian Pacific Railway to reduce its mill stop-over charge on western grain, ex-lake, milled-in-transit, from two cents to one cent per 100 pounds.

No. 26643, October 15, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the corporation of the township of Dunnet, operating in the districts of Sudbury and Nipissing, Ont.

No. 26644, October 15, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Everett Telephone Company, operating in the counties of Simcoe and Dufferin, Ont.

No. 26662, October 18, 1917.—Disallows tariff of the Dominion Atlantic Railway increasing the minimum carload weight of apples from 24,000 pounds to 30,000 pounds.

No. 26671, October 22, 1917.—Disallows certain charges of railways in Western Canada for terminal switching movements for distances over one thousand feet.

No. 26677, October 25, 1917.—Approves an agreement for the interchange of telephone services, between the Bell Telephone Company and the Acorn Rural Telephone Association, operating in the county of Renfrew, Ont.

General Order No. 208, October 25, 1917.—Amending General Order No. 152. Authorizes the re-filing of tariffs of tolls for the use of refrigerator cars for the carriage of vegetables.

No. 26715, November 5, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and La Cie de Téléphone St. Maurice et Champlain, operating in the counties of Champlain and Portneuf, Que.

No. 26716, November 5, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Doe Lake Telephone Company, operating in the district of Muskoka, Ont.

No. 26717, November 6, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Brougham and Gratton Telephone Company, operating in the county of Renfrew, Ont.

No. 26731, November 12, 1917.—Amending Order No. 20846. Extends the express collection and delivery limits at Hamilton, Ont.

General Order No. 209, November 13, 1917.—Approves Supplement No. 10 to Canadian Freight Classification No. 16.

No. 26753, November 19, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Innerkip Rural Telephone Company, operating in the county of Oxford, Ont.

No. 26769, Novmber 24, 1917.—Approves Standard Maximum Mileage Freight Tariff C.R.C. No. 2725 of the Michigan Central Railroad.

No. 26771, November 26, 1917.—Approves Standard Maximum Mileage Freight Tariff C.R.C. No. 3 of the Elgin and Havelock Railway.

No. 26792, December 1, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Dunnville Consolidated Telephone Company, operating in the counties of Haldimand, Lincoln, Welland and Brant, Ont.

No. 26794, December 3, 1917, rescinding suspension Order No. 26035, of April 17, 1917. Permits the filing of revised tariffs on hay and straw from Canada to the Eastern United States.

General Order No. 211, December 10, 1917.—Prescribes minimum loadings for lumber in closed cars in Eastern Canada.

No. 26821, December 13, 1917.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Laurentide Telephone Company, operating in the county of Ottawa, Que.

No. 26831, December 14, 1917.—Rescinds Order No. 26008 of April 12, 1917, requiring the Canadian Northern to publish joint lake and rail rates from Toronto to its western stations by steamer to Port Arthur.

No. 26838, December 17, 1917.—Approves Standard Maximum Passenger tariff C.R.C. No. 303 of the Northern Pacific Railway at 4 cents per mile between its stations in British Columbia.

No. 26858, December 19, 1917.—Requires the Canadian Northern Railway to charge certain joint rates on pulpwood from its Irondale Division to Campbellford, Ont., via. G.T.R.

General Order No. 213, December 26, 1917.—Permits the railway companies to increase their Standard Maximum freight tariffs by 15 per cent; also their standard passenger tariffs (except in British Columbia) to the basis of 3·45 cents per mile.

No. 26875, December 29, 1917.—Approves standard parlor-car tariff of the Northern Pacific Railway, C.R.C. No. S. 3 on the basis of one-half cent per mile between its stations in British Columbia.

No. 26883, January 3, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Mayo & Blanche Rural Telephone Company, operating in the county of Labelle, Que.

No. 26898, January 7, 1918.—Prescribes express free collection and delivery limits at The Pas, Man.

General Order No. 214, January 10, 1918.—Approves standard maximum passenger tariffs of various railway companies on the basis permitted by General Order No. 213, *supra*.

No. 26899, January 11, 1918.—Approves standard maximum freight tariff C.R.C. No. 375 of the Northern Pacific Railway between its stations in British Columbia.

No. 26901, January 14, 1918.—Authorizes tolls to be charged at Cartier, Ont., for detention of western grain and grain products consigned to Cartier for reconsigning orders.

General Order No. 212, January 15, 1918.—Permits the railway companies to increase their special tolls for transportation 15 per cent, with specific modifications.

General Order No. 214-A, January 17, 1918.—Approves standard passenger tariffs of certain railway companies on the basis permitted by General Order No. 213, *supra*.

General Order No. 215, January 17, 1918.—Approves standard freight tariffs of various railway companies on the basis permitted by General Order No. 213, *supra*.

No. 26916, January 17, 1918.—Prescribes express free collection and delivery limits at Timmins, Ont.

No. 26917, January 19, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Drummondville Telephone Company, operating in the counties of Drummond, Bagot and Yamaska, Que.

No. 26918, January 18, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Crown Hill Telephone Company, operating in the county of Simcoe, Ont.

No. 26919, January 18, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and La Compagnie Telephone Locale St. Georges de Windsor, operating in the counties of Richmond and Wolfe, Que.

No. 26924, January 22, 1918.—Permits appeal to the Supreme Court of Canada upon questions of law in connection with the judgment of the Board in the 15 per cent case. (General Order 212, *supra.*)

No. 26925, January 22, 1918.—Approves standard maximum mileage tariff C.R.C. No. 40, of the Northern Express Company.

No. 26926, January 23, 1918.—Permits appeal to the Supreme Court of Canada upon questions of law in connection with General Order of the Board No. 213, *supra.*

No. 26927, January 23, 1918.—Approves a form of release from liability in respect of persons travelling in non-passenger cars on the Canadian Pacific, Canadian Northern, Grand Trunk and Grand Trunk Pacific Railways.

General Order No. 214-B, January 24, 1918.—Approves standard passenger tariffs of the Boston & Maine Railroad and Moncton & Buctouche Railway on the basis permitted by General Order No. 213, *supra.*

General Order 215-A, January 24, 1918.—Approves standard freight tariffs of the Moncton & Buctouche Railway and Quebec Railway Light & Power Company on the basis permitted by General Order No. 213, *supra.*

No. 26944, January 28, 1918.—Approves revised express free collection and delivery limits at Winnipeg, Man.

No. 26945, January 25, 1918.—Approves revised express free collection and delivery limits at Windsor, Ont.

No. 26946, January 29, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the corporation of the township of Tilbury East, operating in the county of Kent, Ontario.

No. 26951, January 29, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Ferry Road Telephone Company, operating in the counties of Lanark and Leeds, Ontario.

No, 26986, February 12, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Plum Hollow & Eloida Independent Telephone Company, operating in the county of Leeds, Ontario.

No. 26987, February 12, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the West Lake Telephone Company, operating in the district of Algoma, Ontario.

No. 26993, February 12, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the United Telephone Company, operating in the county of Middlesex, Ontario.

No. 26994, February 18, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the East Wakefield Telephone Company, operating in the county of Ottawa, Quebec.

No. 27019, February 21, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the corporation of the township of Euphrasia, operating in the county of Grey, Ontario.

No. 27025, February 23, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Nissouri Telephone Company, operating in the county of Oxford, Ontario.

General Order No. 214-C, February 25, 1918.—Approves standard passenger tariffs of the Elgin & Havelock Railway and the Northern Pacific Railway on the basis permitted by General Order No. 213, *supra*.

General Order No. 215-B, February 25, 1918.—Approves standard freight tariffs of the Elgin & Havelock Railway, Essex Terminal Railway and Northern Pacific Railway on the basis permitted by General Order No. 213, *supra*.

No. 27028, February 25, 1918.—Approves a form of release from liability in respect of persons travelling in non-passenger cars on the Toronto, Hamilton & Buffalo Railway.

No. 27036, February 26, 1918.—Prescribes rates for the carriage of cream by express companies in British Columbia.

General Order No. 221, February 26, 1918.—Prescribes minimum carload weights for tan bark in Eastern Canada.

No. 27052, March 7, 1918.—Approves a form of release from liability in respect of persons travelling in non-passenger cars on the Kettle Valley Railway.

No. 27064, March 15, 1918.—Approves an agreement for the interchange of telephone services between the Bell Telephone Company and the Boat Lake Telephone Company, operating in the county of Bruce, Ontario.

No. 27068, March 16, 1918.—Prescribes carload rates on cut-glass jars and tumblers from Wallaceburg, Ont., to Toronto and Montreal.

No. 27081, March 21, 1918.—Prescribes reduced rates on coal from the Niagara Frontier to Preston, Hespeler and Guelph, Ont.

No. 27085, March 18, 1918.—Requires the Canadian Pacific Railway to extend the milling-in-transit arrangement to western grain milled at Montreal for destinations on or via the Intercolonial Railway.

No. 27096, March 22, 1918.—Disallows certain tariffs of the express companies by which they proposed to discontinue the free cartage of fish in carloads.

General Order No. 223, March 28, 1918.—Amends General Order No. 204 to permit the heavier loading of explosives in large capacity cars.

I have the honour to be, sir,

Your obedient servant,

J. HARDWELL,
Chief Traffic Officer.

APPENDIX "C."

REPORT OF CHIEF OPERATING OFFICER, GEO. SPENCER.

July 25, 1918.

Dear Sir,—I have the honour to submit herewith, for the Boards Thirteenth Annual Report, a synopsis of the work performed by its Operating Department during the year ending March 31, 1918.

THE REPORTING AND INVESTIGATING OF ACCIDENTS ATTENDED BY PERSONAL INJURY OR LOSS OF LIFE.

During the year accidents to the number of of 1726, covering 333 persons killed and 1,330 injured, were reported to the Board by the various railway companies under its jurisdiction. For particulars, attention is directed to statements 1, 3 and 4.

Out of the total of 1,726 accidents reported as above referred to, accidents to the number of 634 covering 223 persons killed and 892 injured, were enquired into.

Attention is directed to the fact that out of the total of 333 persons killed and 1,830 persons injured, there were trespassers to the number of 93 killed and 63 persons injured. In this respect reference is made to statement 12.

It will be observed by referring to statements 2, 5 and 6, which are comparative statements of the killed and injured, that there is a decrease of 50 persons killed, and, as regards injured persons, there is an increase of 137 as compared with last year.

The matter of highway crossing accidents, protection provided, etc., is set out in statements 3, 4, 7, 8, 9, 10, 11.

Regarding the more prominent accidents during the past five years, same are described in statement 14.

Statement 13 covers a ten-year period of all accidents to passengers, employees and others, comparatively.

INSPECTION OF SAFETY APPLIANCES ON FREIGHT CARS AND LOCOMOTIVES.

Details of the year's work are to be found in statements 15, 16, 17A and 17B.

INSPECTION OF MOTIVE POWER.

During the year 6,416 locomotives were inspected by this department. While a number of defects were reported same were promptly remedied following the inspections.

The monthly and annual inspection report forms for locomotives, numbering approximately 60,000 all told, have been carefully checked upon filing, and where defects were shown necessary action was taken.

LOCOMOTIVE DROPPING CROWN SHEET.

Under this heading it is gratifying to note the small number of persons injured, there being three (3) only employees injured. See second last heading on page 6 of statement 4. The three crown sheet failures were the result of low water, no contributing causes being found.

INSPECTING OF PASSENGER EQUIPMENT, STATION BUILDINGS AND PREMISES.

The work under this heading is carried on by the inspectors while en route taking up various other matters and has to do with the feature of safety, cleanliness, accomodation, etc. Numerous matters have been brought to the attention of the proper officers with good results.

APPLICATIONS AND COMPLAINTS RE TRAIN AND STATION SERVICE.

A large part of the work of the department is the inquiring into applications and complaints in the matter of train and station service. These number several hundred and are to be found enumerated in an appendix prepared by the Secretary's Depart ment.

It might not be amiss to point out that a great deal of work, which would come under this heading was done in connection with the movement of the western grain crop and also in connection with the fuel situation in both Eastern and Western Canada. Difficulties in transportation were brought about very materially by extremely cold and stormy weather.

In conclusion it might be stated that in order to accomplish the work briefly outlined above, it has necessitated the travelling of approximately 350,000 miles by the staff of the department.

SESSIONAL PAPER No. 20c

STATEMENT No. 1.—Showing the Number of Passengers, Employees and other persons Killed and Injured on the various Railways in Canada, under the Board's jurisdiction, for the year ending March 31, 1918.

Name of Railway.	Passengers.		Employees.		Others.		Total.	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk	1	97	36	449	68	83	105	629
Canadian Pacific	13	135	58	81	58	66	129	282
Grand Trunk Pacific		13	3	89	4	2	7	104
Canadian Northern	6	53	21	238	19	57	46	348
Michigan Central	1	4	9	167	12	13	22	184
Essex Terminals				3				3
Chatham, Wallaceburg and Lake Erie					1		1	
Central Vermont				1				1
Kettle Valley						4		4
Midland				2				2
Hamilton and Brantford					1	5	1	5
London and Port Stanley					1	1	1	1
Montreal and Southern Counties		20						20
Windsor, Essex and Lake Shore						6		6
New York Central		1		8		2		11
Quebec, Montreal and Southern	1			12			1	12
Thousand Islands					1		1	
Algoma Central and Hudson Bay			2			1	2	1
Oshawa				2				2
Pere Marquette			1	11	1	2	2	13
Wabash			1	25	2		3	25
Esquimalt and Nanaimo		1		8				9
Dominion Atlantic				3	2	1	2	4
Lake Erie and Northern		17		5	1		1	22
Hull Electric						3		3
Toronto, Hamilton and Buffalo		1	2	63		18	2	82
Great Northern			1		1	1	2	1
Vancouver, Victoria and Eastern			3	53	2	3	5	56
	22	342	137	1,220	174	268	333	1,830

STATEMENT No. 2.—A Comparative Statement of Killed and Injured between years ending March 31, 1917 and 1918.

	Passengers.		Employees.		Others.		Total.	
	K.	I.	K.	I.	K.	I.	K.	I.
Year ending March 31, 1917	16	280	155	1,174	212	239	383	1,693
Year ending March 31, 1917	22	342	137	1,220	174	268	333	1,830
Increase over 1917	6	62		46		29		137
Decrease over 1917			18		38		50	

STATEMENT No. 3.—Statement showing separately the Number of Passengers, Employees and others Killed and Injured, and the nature of the Accidents, for the year ending March 31, 1918.

Character of Accidents.	Passengers.		Employees.		Others.		Total.	
	K.	I.	K.	I.	K.	I.	K.	I.
Derailment		175	16	62	3	5	19	242
Collision head-on	5	39	1	8			6	47
Collision rear-on	7	63	7	23			14	86
Collision in yard		7	9	33		18	9	58
Collision with cars standing foul of main line				1		13		14
Collision with cars account open switch				7				7
Collision at level crossing		11				3		14
Public highway crossing protected by gates					6	15	6	15
Public highway crossing protected by bell					9	12	9	12
Public highway crossing protected by watchman						5		5
Public highway crossing unprotected				2	52	117	52	119
Private crossing		1				1		2
Trespassing				6	93	58	93	64
Working on or under engine			1	114			1	114
Unclassified		18	7	273	5	8	12	299
Adjusting couplers, coupling and uncoupling			5	70			5	70
Working on track or bridge			2	101			2	101
Falling off handcar, motor or velocipede			1	23	1		2	23
Handcar, motor, velocipede struck by train			5	11			5	11
Crawling under cars				1				1
Crawling through cars over couplers			1	3			1	3
Caught while passing through cars between couplers			4	4	1		5	4
Cars standing foul				10				10
Struck by switch stand water spout, mail crane, etc		1		13		1		15
Crushed between cars, buildings, lumber pile, platforms, etc			1	12			1	12
Explosion of locomotive boiler				1				1
Falling off passenger train	3	11	1	2			4	13
Falling off tender while handling coal				3				3
Falling off tender while taking water				7				7
Working in shop			4	118			4	118
Riding on pilot of engine				4				4
Overhead bridge								
Repairing cars on repair track when moved by engine			2				2	
Falling off top of car while walking over train			6	23			6	23
Falling between cars going over top			1	2			1	2
Train parting and colliding			1	15			1	15
Jumping off train in motion	2	12	3	30	1	4	6	46
Attempt to board train in motion	5	4	8	20			13	24
Washout								
Bridge gave way or burnt								
Electrocuted			1				1	
Run down in yard by switch or other engine or moving car			41	48	2	2	43	50
Passing too close around end of string of cars								
Caught in frog, guard rail or switch rod				5				5
Caught when throwing switch				4				4
Falling off cars while climbing up and coming down side or end ladders			1	6		1	1	7
Falling off car while working hand brake			1	11			1	11
Asphyxiated in tunnel								
Handling freight			2	80			2	80
Loading and unloading O.C.S. material				32		1		33
Building and repairing				10				10
Working in coal chute			1	5			1	5
Cars moved while loading and unloading			1	5		3	1	8
Drawbridge open								
Repairing cars on running track when moved by engine			1	4			1	4
Locomotive dragging cross beam of frame				3				3
Coupling and uncoupling air hose			2	5	1	1	3	6
	22	342	137	1,220	174	268	333	1,830

STATEMENT No. 4.—Statement showing the Character of Accidents sustained by the Persons Killed and Injured on the various Railways under the Jurisdiction of the Board for the year ending March 31, 1918.

Name of Railway.	Derailment.		Collision head-on.		Collision rear-end.		Collision in yard.		Collision with cars standing foul of main line.		Collision with cars account open switch.		Collision at level crossing.		Public highway crossing protected by gates.		Public highway crossing protected by bell.	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk	8	34	....	4	5	54	2	7	....	....	..	3	....	11	5	12	3	6
Canadian Pacific	6	111	....	....	8	24	6	7	....	....	....	....	....	3	1	3	3	2
Grand Trunk Pacific	....	19	....	....	..	1	..	9	.	..	....	....	..	....	..	.	..	..
Canadian Northern	1	24	6	41	..	4	1	6	.	13	....	....	....	..	....	....	1	1
Michigan Central	2	4	..	..	.	..	..	16	..	1	..	....	....	....	....	..	2	3
Essex Terminal	....	....	....	..	..	..	....	..	..	....	..	..	....	..	....	..	..	..
Chatham, Wallaceburg & L. E.	....	....	....	..	..	..	....	..	..	....	..	..	....	....	....	..	..	..
Central Vermont	....	....	....	..	..	..	....	..	..	....	..	..	....	....	....	..	..	..
Kettle Valley	....	....	....	..	..	..	....	..	..	....	..	..	....	....	....	..	..	..
Midland	....	....	....	..	..	..	....	..	..	....	..	..	....	....	....	..	..	..
Hamilton and Brantford	....	....	....	..	..	..	....	..	..	....	..	..	....	....	....	..	..	..
London and Port Stanley	....	....	....	..	..	..	....	..	..	....	..	..	....	....	....	..	..	..
Montreal and Southern Counties	....	20	....	..	..	..	....	..	..	....	..	..	....	....	....	..	..	..
Windsor, Essex and Lake Shore	....	....	....	..	..	..	....	..	..	....	..	..	....	....	....	..	..	..
New York Central	....	....	....	..	..	..	....	..	..	....	..	..	....	....	....	..	..	..
Quebec, Montreal and Southern	....	....	....	..	..	1	..	..	..	..	..	2	....	....	..	..	..	..
Thousand Islands	....	....	....	..	..	..	....	..	..	....	..	....	....	....	..	..	..	..
Algoma Central and Hudson Bay	....	....	..	..	..	..	....	..	..	....	..	....	....	....	..	..	..	..
Oshawa	....	....	..	1	..	..	....	..	..	....	..	....	....	....	..	..	..	..
Pere Marquette	....	1	..	1	..	..	....	..	..	....	..	....	....	....	..	..	..	..
Wabash	....	....	....	..	..	..	....	..	..	....	..	2	....	..	..	..	..	..
Esquimalt and Nanaimo	....	2	....	..	..	..	....	..	..	....	..	....	....	..	..	..	..	..
Dominion Atlantic	....	....	....	..	..	..	....	..	..	....	..	....	....	....	..	..	..	..
Lake Erie and Northern	....	20	....	..	..	..	....	..	..	....	..	....	....	....	..	..	..	..
Hull Electric	....	....	.	..	..	..	....	..	..	....	..	..	....	....	....	..	..	..
Toronto, Hamilton and Buffalo	....	....	.	....	1	2	....	13	....	.	..	.	..	..	..	..	..	..
Great Northern	....	....	.	....	....	..	....	....	..	..	..	.	..	..	..	..	..	..
Vancouver, Victoria and Eastern	2	7	.	....	....	..	....	.	..	..	..	.	..	.	..	..	..	..
	19	242	6	47	14	86	9	58		14	..	7	..	14	6	15	9	12

STATEMENT No. 4 *Continued.*

	Public highway crossings protected by watchmen		Public highway crossings unprotected		Private crossings		Trespassing		Working on or under engine		Uncoupling		Adjusting couplers, coupling and uncoupling		Working on track or bridges.		Falling off heading car, motor, or velocipede		Hand car, motor, velocipede struck by train	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk			24	30		1	32	20		17	6	119	1	33		32		11		1
Canadian Pacific			11	55			58	33		5		47	1	8	1	1	3	3	3	
Grand Trunk Pacific				2			4			4		2	1	2		8				
Canadian Northern				21			11	13	1	11		23	1	14	1	22		3	1	3
Michigan Central		1	4	8			6	1		17	1	51		8		25		1	1	1
Essex Terminal										3										
Cheaham, Wallaceburg and L. E.																				
Central Vermont				1																
Kettle Valley				4																
Midland												1								1
Hamilton and Brantford			1	5																
London & Port Stanley																				
Montreal and Southern Counties																				
Windsor, Essex and Lake Shore				6																
New York Central				1										3						
Quebec, Montreal and Southern										1		1				2				1
Thousand Islands			1																	
Algoma Central and Hudson Bay								1												
Ottawa																				
Pere Marquette				1		1	1			4		2	1							
Wabash			1				1	1		11		1		2		1				1
Esquimalt and Nanaimo																				
Pittsburgh Shawmut							1	1		1	1									
Lake Erie and Northern			1																	
Hull Electric								3												
Toronto, Hamilton and Buffalo				4						7		18		3		4		1		
Grand Northern							1	1												
Vancouver, Victoria and Eastern			1	3			1			3		11				14		1		1
		5	72	119		2	93	64	1	114	12	99	5	70	2	101	2	23	5	11

STATEMENT No. 4—*Continued.*

Name of Railway.	Crawling under cars.		Crawling through cars over couplers.		Caught while passing through cars between couplers.		Cars standing foul.		Struck by switch stand, water spout, mail crane, etc.		Crushed between cars, buildings, lumber piles, etc.		Explosion of locomotive boiler.		Falling off passenger train.		Falling off tender while handling coal.	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk				1	1			8		7	1	4			1	5		1
Canadian Pacific			1	1	4			2		1		1			2	6		
Grand Trunk Pacific												1						
Canadian Northern						1				3		3			1	1		1
Michigan Central		1		1		1				3		2						1
Essex Terminal																		
Chatham, Wallaceburg and L. E																		
Central Vermont																		
Kettle Valley																		
Midland																		
Hamilton and Brantford																		
London and Port Stanley																		
Montreal and Southern Counties																		
Windsor, Essex and Lake Shore																		
New York Central																		
Quebec, Montreal and Southern																		
Thousand Islands																		
Algoma Central and Hudson Bay																		
Oshawa																		
Pere Marquette																		
Wabash																		
Esquimault and Nanaimo										1								
Dominion Atlantic						1												
Lake Erie and Northern																		
Hull Electric																		
Toronto, Hamilton and Buffalo						1						1				1		
Great Northern																		
Vancouver, Victoria and E														1				
		1	1	3	5	4		10		15	1	12		1	4	13		3

STATEMENT No. 4—*Continued.*

Name of Railway	Taking off engine while taking water		Working in shop		Riding on pilot of engine.		Overhead bridge		Repairing cars on repair track when moved by engine.		Falling off top of car while walking over train.		Falling between cars going over top.		Train parting and colliding		Jumping off train in motion.		Attempt to board train in motion.	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk		2	1	39		3					2	8			1	5		14	1	3
Canadian Pacific				2		1			1		3	1					4	6	10	
Grand Trunk Pacific		2		18								2						2		
Canadian Northern			2	32								3	1			3		9	1	
Michigan Central		1		9								3		1		6		3	1	
Essex Terminal																				
Chatham, Wallaceburg and L. E																				
Central Vermont																				
Kettle Valley																				
Midland																				
Hamilton & Brantford [1]																				
London and Port Stanley																				
Montreal and Southern Counties																				
Windsor, Essex and Lake Shore																				
New York Central												2				1		1		
Quebec, Montreal and Southern												1					1	1		
Thorsand Islands																				
Algoma Central and Hudson Bay			1						1											
Oshawa														1						
Pere Marquette				2																
Wabash		1		1													1			
Esquimault and Nanaimo																		1		
Dominion Atlantic																		1		
Lake Erie and Northern				1																
Hull Electric																				
Toronto, Hamilton and Buffalo				9							1	1						4		2
Great Northern																				
Vancouver, Victoria and Eastern		1		4														1		
		7	4	118		4			2		6	23	1	2	1	15	6	46	13	21

STATEMENT No. 4—*Continued.*

Name of Railway.	Washout.		Bridge gave way or burnt.		Electrocuted.		Run down by switch or other engine or moving cars.		Passing too close around end of string of cars.		Caught in frog, guard rail, or switch rod.		Caught while throwing switch.		Falling off cars while climbing up and coming down side or end ladders.		Falling off cars while working hand brakes.	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk							11	14				2		3		2		5
Canadian Pacific					1		20	19								2		1
Grand Trunk Pacific							1	2										
Canadian Northern							5	9				2		1	1	1	1	
Michigan Central							4	5				1				2		
Essex Terminal																		
Chatham, Wallaceburg and Lake Erie							1											
Central Vermont																		
Kettle Valley																		
Midland																		
Hamilton and Brantford																		
London and Port Stanley																		
Montreal and Southern Counties																		
Windsor, Essex and Lake Shore																		
New York Central																		
Quebec, Montreal and Southern																		
Thousand Islands																		
Algoma Central and Hudson Bay																		
Pere Marquette																		1
Wabash																		
Esquimalt and Nanaimo																		
Dominion Atlantic																		
Lake Erie and Northern																		
Hull Electric																		1
Toronto, Hamilton and Buffalo								1										
Great Northern							1											
Vancouver, Victoria and Eastern																		
Oshawa																		
					1		43	50				5		4	1	7	1	11

STATEMENT, No. 4.—*Continued.*

Name of Railway	Accidents caused by tunnel		Hand line trouble		Leaving and reloading O.C.S. material		Rushing and repairing		Working in coal chute		Cars moved while loading and unloading.		Draw bridge open.		Repairing cars on running track when moved by engine		Locomotive dropping crown sheet of firebox		Coupling and uncoupling air hose		Total	
	K.	I	K	I	K.	I	K	I.	K.	I.	K.	I.	K.	I.	K.	I.	K	I.	K.	I.	K.	I	
Grand Trunk			45		16		4		1		5				2				1	105	629
Canadian Pacific		1	1							1		1							1	129	283
Grand Trunk Pacific			2		3		3		1											7	101
Canadian Northern			13		7		2	1	1		3				1		1	1		46	348
Michigan Central			6		3				2								1	1	1	22	184
Essex Terminal																					3
Charleston Wabash and Lake Erie																				1	
Central Vermont																					1
Kettle Valley																					4
Midland																					3
Hamilton and Brantford																				1	
London and Port Stanley																		1	1	1	1
Montreal and Southern Counties																					20
Windsor, Essex and Lake Shore																					6
New York Central																			1		
Quebec, Montreal and Southern			2																	1	1
Thousand Islands																					2
Algoma Central and Hudson Bay																					
Ottawa																					
Pere Marquette															1						
Wabash																	1				
Esquimalt and Nanaimo					1							1									
Detroit, Toledo																					
Lake Erie and Northern			1																	1	
Hull Electric																					
Toronto, Hamilton and Buffalo			5																1		
Great Northern																					
Vancouver, Victoria and Eastern		1	5		3		1													3	5
		2	80		33		10	1	5	1	8			1	4		3	3	6	333	1,830

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STATEMENT No. 5.—Comparative Statement in totals of Killed and Injured between years ending March 31, 1917 and 1918, separately for each and every year.

Character of Accidents.	1917.		1918.		1918. Increase.		1918. Decrease.	
	K.	I.	K.	I.	K.	I.	K.	I.
Derailment	10	234	19	242	9	8		
Collison head-on	6	45	6	47		2		
Collison rear-end	16	42	14	86		44	2	
Collision in yard	3	13	9	58	6	45		
Collision with cars standing foul of main line	2	5		14		9	2	
Collision with cars account open switch		15		7				8
Collision at level crossing	2	22		11			2	7
Public highway crossing protected by gates	10	15	6	15			4	
Public highway crossing protected by bell	4	10	9	12	5	2		
Public highway crossing protected by watchman	1	13		5			1	8
Public highway crossing unprotected	45	98	52	119	7	21		
Private crossing				2		2		
Trespassing	129	79	93	64			36	15
Working on or under engine	7	118	1	114			6	4
Unclassified	16	272	12	299		27	4	
Adjusting couplers, coupling and uncoupling	5	53	5	70		17		
Working on track or bridge	3	92	2	101		9	1	
Falling off hand car, motor or velocipede	4	32	2	23			2	9
Hand car, motor, or velocipede struck by train	6	7	5	11		4	1	
Crawling under cars		1		1				
Crawling through cars over couplers		7	1	3	1			4
Caught while passing through cars between couplers	1		5	4	4	4		
Cars standing foul		6		10		4		
Struck by switch stand, water spout, mail crane, etc.	1	10		15			1	4
Crushed between cars, building, lumber piles, etc	1	17	1	12				5
Explosion of locomotive boiler				1		1		
Falling off passenger train	4	13	4	13				
Falling off tender while handling coal		6		3				3
Falling off tender while taking water	1	7		7			1	
Working in shop	1	116	4	*118	3	2		
Riding on pilot of engine	1	3		4		1	1	
Overhead bridge		2						2
Repairing cars on repair track when moved by engine		3	2		2			3
Falling off top of car while walking over train	4	21	6	23	2	2		
Falling between cars going over top	2	4	1	2			1	2
Train parting and colliding	2	9	1	15		6	1	
Jumping off train in motion	12	53	6	46			6	7
Attempt to board train in motion	4	30	13	24	9			6
Washout	2	1					2	1
Bridge gave way or burnt								
Electrocuted			1		1			
Run down in yard by switch or other engines or moving cars	63	56	43	70			20	6
Passing too close around end of string of cars	1						1	
Caught in frog, guard rail or switch rod	2	3		5		2	2	
Caught while throwing switch		2		4		2		
Falling off cars while climbing up and coming down side of end ladders	2	15	1	7			1	8
Falling off car while working hand brake	1	7	1	11		4		
Asphyxiated in tunnel								
Handling freight	4	70	2	80		30	2	
Loading and unloading O.C.S. material		39		33				6
Building and repairing		10		10				
Working in coal chute	3	16	1	5			2	11
Cars moved while loading and unloading		7	1	8	1	1		
Drawbridge open								
Repairing cars on running track when moved by engine	2	3	1	4		1	1	
Locomotive dropping crown sheet of firebox		2		3		1		
Coupling and uncoupling air hose			3	6	3	6		
	283	1,693	333	1,830	53	257	103	120
	333			1,693		120	53	
Decrease	50					137		
Increase				137			50	

STATEMENT No. 6.—Comparative Statement in totals of Killed and Injured between year ending March 31, 1917 and March 31, 1918, for each railway separately.

Name of Railway.	1917.		1918.		1918. Increase.		1918. Decrease.	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk	114	549	105	629		80	9	
Canadian Pacific	161	325	129	282			32	43
Grand Trunk Pacific	12	52	7	104		52	5	
Canadian Northern	35	318	46	348	11	30		
Michigan Central	17	213	22	184	5			29
Essex Terminal				3		3		
Chatham, Wallaceburg and Lake Erie			1		1			
Central Vermont				1		1		
Kettle Valley				4		4		
Midland		1		2		1		
Hamilton and Brantford			1	5	1	5		
London and Port Stanley	1		1	1		1		
Montreal and Southern Counties	2	5		20		15	2	
Windsor, Essex and Lake Shore				6		6		
New York Central	2	9		11		2	2	
Quebec, Montreal and Southern		7	1	12	1	5		
Thousand Islands			1		1			
Algoma Central and Hudson Bay	1	4	2	1	1			3
Oshawa				2		2		
Pere Marquette	5	31	2	13			3	18
Wabash	6	35	3	25			3	10
Esquimault and Nanaimo		2		9		7		
Dominion Atlantic	3	4	2	4			1	
Lake Erie and Northern		8	1	22	1	14		
Hull Electric	1	3		3			1	
Toronto, Hamilton and Buffalo	5	59	2	82		23	3	
Great Northern			2	1	2	1		
Vancouver, Victoria and Eastern	2	43	5	56	3	13		
Niagara, St. Catherines and Toronto	7	1					7	1
Winnipeg Joint Terminals	2	1					2	1
Temiscouata		1						1
Hamilton Radial Electric		1						1
Algoma Eastern	1						1	
Red Mountain		1						1
Quebec Railway Light and Power	1						1	
Vancouver and Lulu Island	1						1	
Ottawa and New York		1						1
London and Lake Erie	1						1	
Boston and Maine	3	6					3	6
Halifax and Southwestern		13						13
	383	1,693	333	1,830	27	265	77	128
	333			1,693		128	27	
Decrease	50						50	
Increase				137		137		

STATEMENT No. 7.—Statement showing the Number of Highway Crossing Accidents, with the total Number of Killed and Injured, by Provinces and Railways, for the year ending March 31, 1918.

Name of Railway.	Ontario.			Quebec.			New Brunswick.			Nova Scotia.			Manitoba			British Columbia.			Saskatchewan.			Alberta.			Total.		
	Acc.	K	I.	Acc.	K.	I.	Acc.	K.	I.	Acc.	K	I.	Acc.	K	I.	Acc.	K	I.	Acc.	K	I.	Acc.	K	I.	Acc.	K	I.
Grand Trunk	43	26	44	10	6	6																			53	32	50
Canadian Pacific	11	6	15	12	6	11	2	1	2				1	1		1		1	6	1	7	4		5	37	15	41
Canadian Northern	4	1	8	6	5	7				1		1	3	1	2				3		3	1		1	18	7	23
Grand Trunk Pacific																			1	2					2	2	2
Michigan Central	12	6	12																						12	6	12
Central Vermont				1		1																			1		1
Kettle Valley																1		4							1		4
Hamilton and Brantford	1	1	5																						1	1	5
Windsor, Essex and L. S.	1		6																						1		6
New York Central				1		1																			1		1
Pere Marquette	1		1																						1	1	
Thousand Islands	1	1																							1	1	
Wabash	1	1																							1	1	
Lake Erie and Northern	2		4																						2		4
Vancouver, Victoria and Eastern																3	1	3							3	1	3
	77	42	95	30	17	26	2	1	2	1		1	4	2	2	5	1	8	10	3	10	5		6	134	66	150

STATEMENT No. 8.—Statement showing Railway Crossings at which Protection provided, and Nature of Protection, during year ending March 31, 1918.

File No.	Order No.	Location of Crossing.	Railway	Nature of Protection.
[illegible]	[illegible]	Elizabethtown, Ont., Lyon Road, west of Brockville	G T R	Subway.
[illegible] 17	[illegible]	Guelph, Ont., Queen Street	C P R	Automatic electric bell.
[illegible] 19	[illegible]	Weston, Ont., Dufferin Street.	C P R & and G T R	Automatic electric bell.
[illegible] 25	[illegible]	Casselman, Ont., Sealey Street	G T R	Automatic electric bell.
[illegible] 4796	[illegible]	Jamesville, Ont., Lawton Road and Victoria Street	G T R	Gates.
[illegible]	[illegible]	Red Deer, Alta., first crossing south of station	C P R	Speed limitation of 15 miles per hour.
[illegible]	[illegible]	Owen Sound, Ont., crossing near	G T R	Automatic electric bell.
[illegible]	[illegible]	Brantford, Ont., Clarence and Market Streets	G T R	Speed limitation of 5 miles per hour.
[illegible] 3	[illegible]	Township of Hamilton, Ont., Locke Road	G T R	Automatic electric bell.
[illegible] 33	[illegible]	Woodstock, Ont., Riddell Street	G T R	Automatic electric bell.
[illegible] 12	[illegible]	Hull, Que., Crossing immediately east of station	C P R	Automatic electric bell.
[illegible] 1	[illegible]	Ingersoll, Ont., mileage 150	N Y & H	Removal of scrub, West end.
[illegible] 16	[illegible]	Vancouver, Que., Rockland Ave.	C P R	Gate.
[illegible] 11	[illegible]	Lambton St., Reinauld de Bernham, Que., crossing west	C P R	Automatic electric bell.
[illegible]	[illegible]	Moberly, B.C., Horne Avenue	C P R	Cars not to be allowed standing within 150 feet of the centre of street.
[illegible] 157				
[illegible] 1284	[illegible]	London, Ont., Burwell, Adelaide and Rectory Street	G T R	Gates.
[illegible] 29	[illegible]	Tilsonburg, Ont., immediately west	G T R	Automatic electric bell.
[illegible] 40	[illegible]	Port Colborne, Ont., town line crossing	G T R	Speed limitation of 10 miles per hour.
[illegible]	[illegible]	Buckingham, Que., crossing west of	C P R	Automatic electric bell.
[illegible] 13	[illegible]	Woodbridge, Ont., Humber Station crossing	C P R	Removal of scrub.
[illegible] 1	[illegible]	Penticton, B.C., Winnipeg Street	K V R	Speed limitation of 4 miles per hour.
[illegible] 4	[illegible]	Brockville, Ont., east leg of wye	C P R and C N R	Speed limitation of 6 miles per hour and removal of trees at east and west legs of wye.
[illegible] 41	[illegible]	Vars, Ont., first crossing west	G T R	Automatic electric bell.
[illegible]	6740	Montreal, Que., Darling Street	C N R	Gates.
[illegible]	6741	Montreal, Que., Davidson Street	C N R	Gates.
[illegible] 4	6742	Montreal, Que., Chambly Street	C N R	Gates.
[illegible]	6798	Walkerville, Ont., Devonshire Road	G T R and P M R	Gates.
[illegible]	6806	Walkerville, Ont., Walker Road	G T R and P M R	Gate.
[illegible] 17	6825	Bancroft, Ont., Bridge Street	C N R	Speed limitation of 10 miles per hour.
[illegible]	6850	Kingsville, Ont., Lansdowne Ave.	P M R	Speed limitation of 10 miles per hour.
[illegible]	6857	McAdam Yard, N.B., crossing in yard	C P R	Automatic electric bell.
[illegible] 41	6859	Twp. of London, Ont., Hyde Park Crossing	G T R	Speed limitation of 10 miles per hour.

17814 9437-70 9437-1100 4000-2 10521	26878	Montreal, Que., St. Phillipe, Convent, St. Ambroise, St. Ferdinand and Ste. Marguerite Streets	G.T.R.	Gates.
16589-1	26880	Maisonneuve, Que., Orleans Street	C.N.R.	Gates.
9437-397	26891	Twp. Hawkesbury, M. P. 20, Paquette's Crossing	G.T.R.	Speed limitation of 10 miles per hour.
26765-37	26903	Holland Landing, Ont., immediately south of station	G.T.R.	Speed limitation of 10 miles per hour.
7156-17	26911	Ste. Therese, Que., Sanche Street	C.P.R.	Gates.
7270-3	26937	St. Stanislas, Que., Main Street	N.Y.C.	Automatic electric bell.
26765-30	26942	Komoka, Ont., Main Street	G.T.R.	Automatic electric bell.
27156-22	26948	Brome, Que., First public crossing south	C.P.R.	Speed limitation of 10 miles per hour.
26765-66	27063	Port Credit, Ont., Toronto Street	G.T.R.	Train movements flagged over crossing.
27811-3	27087	Lacombe, Alta., First public crossing south	C.P.R.	Special limitation of 10 miles per hour.

STATEMENT No. 9.—Statement showing the number of Highway Crossings at which Protection has been ordered by the Board, and nature of Protection set out by Provinces, for the year ending March 31, 1918.

Nature of Protection.	Nova Scotia.	New Brunswick	Quebec.	Ontario.	Manitoba.	Saskatchewan.	Alberta.	British Columbia.	Total.
Gates			11	8					19
Bell		1	4	9					14
Watchman									
Subway				1					1
Speed limitation			1	9			2	1	13
Trains to be flagged				1					1
Removal of scrub and trees				1				1	2
Cars to be kept clear specified distance								1	1
		1	16	29			2	3	51

STATEMENT No. 10.—Statement showing number of Persons killed and injured at public highway crossings, separately for each year, for five years ending March 31, 1918.

	Gates.		Bell.		Watchman.		Unprotected		Total.	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
1914	10	13	1	6	6	12	44	84	61	115
1915	6	10	2	7	2	5	37	68	47	90
1916	3	4	9	8	2	5	31	57	45	74
1917	10	15	4	10	1	13	45	98	60	136
1918	6	15	9	12		5	52	119	67	151
	35	57	25	43	11	40	209	426	280	566

STATEMENT No. 11.—Statement showing the number of Highway-crossing Accidents, the nature of same, for each and every year separately, for the five years ending March 31, 1918.

	Gates.						Watchman.						Bell.						Unprotected.						Total.					
	1914	1915	1916	1917	1918	Total.	1914	1915	1916	1917	1918	Total.	1914	1915	1916	1917	1918	Total.	1914	1915	1916	1917	1918	Total.	1914	1915	1916	1917	1918	Grand Total.
Automobile...	2	2	.	2	1	7	1	1	2	1	3	8	1	1	2	4	5	13	13	9	11	29	45	107	17	13	15	36	54	135
Horse and rig.	5	2	1	2	1	11	3	2	1	4	3	13	5	3	7	7	3	25	54	59	49	45	43	250	67	66	58	58	50	299
Pedestrian...	14	11	6	12	9	52	7	1	3	1	1	13	3	3	2	4	4	16	23	20	17	25	21	106	47	35	28	42	35	187
	21	15	7	16	11	70	11	4	6	6	7	34	9	7	11	15	12	54	90	88	77	99	109	463	131	114	101	136	139	621

The total of 621 accidents covers 280 persons killed and 566 persons injured as referred to in the preceding statement.

STATEMENT No. 12.—Statement showing the number of Trespassers Killed and Injured, by Provinces and Railways, for the year ending March 31, 1918.

	Ontario		Quebec		British Columbia.		Alberta.		Saskatchewan.		Manitoba.		New Brunswick.		Nova Scotia.		Total.	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk	3	14	9	6													32	20
Canadian Pacific	19	10	8	7	3	2	5	3	3		1		1	1			38	23
Canadian Northern	2	3	5	3				1	2	3	1	2			1	1	11	13
Grand Trunk Pacific									1								1	
Michigan Central	6	1															5	1
Quebec Montreal and Southern				1														1
Pere Marquette	1																1	
Wabash	1	1															1	1
Dominion Atlantic															1	1	1	1
Hull Electric				3														3
Great Northern					1												1	
Vancouver Victoria and Eastern					1												1	
	32	29	20	20	5	2	5	4	6	3	2	2	1	1	2	2	93	63

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STATEMENT No. 13.—Statement showing the Number of Persons Killed and Injured on the various Railways under the Jurisdiction of the Board, from April 1, 1919, until March 31, 1918, classified under three headings, and shown separately for each and every year.

Year.	Passengers.		Employees.		Others.		Total.	
	K.	I.	K.	I.	K.	I.	K.	I.
1909	26	227	191	769	231	205	448	1,201
1910	51	211	194	745	211	167	456	1,123
1911	24	132	263	788	207	199	494	1,119
1912	28	292	230	1,381	231	238	489	1,911
1913	21	410	303	1,603	1,319	218	643	2,231
1914	31	339	249	1,250	314	310	594	1,899
1915	8	239	99	873	230	251	337	1,363
1916	17	140	120	788	200	197	337	1,125
1917	16	280	155	1,174	212	239	383	1,693
1918	22	342	137	1,220	174	268	333	1,830
	246	2,612	1,941	10,591	3,329	2,292	4,514	15,495

STATEMENT No. 14.—Statement showing the Number of Persons Killed and Injured in the more prominent Accidents on the various Railways under the Jurisdiction of the Board, shown separately for each year, for the five years ending March 31, 1918.

Nature of Accident.	1914.		1915.		1916.		1917.		1918.		Total.	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Derailment	39	257	7	82	6	55	10	234	19	242	81	870
Collision head-on	7	29	2	46	4	5	6	45	6	47	25	172
Collision rear-end	14	23	7	49	11	76	16	42	14	86	62	276
Collision in yard	18	55	3	54	26	31	3	13	9	58	59	211
Collision with cars open switch	5	17	....	4	....	3	....	15	....	7	5	46
Collision with cars foul main line	....	8	....	2	1	....	2	5	....	14	3	29
Collision at level crossing	1	39	2	22	....	1	2	22	....	14	5	98
Highway crossing protected	17	31	10	22	14	17	15	38	15	32	71	140
Highway crossing unprotected	44	84	37	68	31	57	45	98	52	119	209	426
Adjusting couplers uncoupling etc	11	60	7	38	5	39	5	53	5	70	33	260
Trespassing	238	164	170	126	143	102	129	79	93	64	773	535
Handcar motor struck by train	10	13	5	9	5	3	6	7	5	11	31	43
Struck by switch stand etc	4	21	1	8	2	6	1	19	....	15	8	69
Caught between cars and buildings	4	7	....	9	2	8	1	17	1	12	8	53
Falling off passenger train	6	17	3	11	1	12	4	13	4	13	18	66
Falling off car walking over train	4	41	4	22	5	22	4	21	6	23	23	129
Falling between cars walking over train	2	5	2	3	....	3	2	4	1	2	7	17
Getting off train in motion	7	55	3	45	11	38	12	53	6	46	39	237
Attempt to board train in motion	8	47	2	29	8	22	4	30	13	24	35	152
Run down by engine or cars	56	64	33	41	27	42	63	56	43	50	222	253
Locomotive dropped crown sheet	2	4	....	3	....	....	....	2	....	3	2	12
	497	1,041	298	693	302	542	330	866	292	952	1,719	4,094

STATEMENT No. 15.—Statement showing number of cars inspected for year ending March 31, 1918, together with defects noted.

STATEMENT No. 15—*Continued.*

Name of Railway.	Cars inspected	Cars defective	Per cent defective	Grand total defects	Couplers and parts	Per cent defective	Uncoupling mechanism	Per cent defective	Hand-holds.	Per cent defective	Air brakes.	Per cent defective.
Canadian Pacific	21,397	1,005	4·69	1,112	17	1·53	170	15·29	49	4·46	676	60 70
Grand Trunk	16,789	784	4·67	911	20	2·19	113	15·70	26	2·85	597	65 53
Canadian Northern	5,097	368	6·04	449	13	2·89	101	22·49	36	8·02	214	47·66
Grand Trunk Pacific	1,465	65	4·44	56	1	1·51	19	28·79	11	16·67	18	27·27
Pere Marquette	1,085	45	4·15	50	1	2	2	4 00			45	90 00
Toronto Hamilton & Buffalo	1,097	47	4·20	51	1	1·96	8	15·69	2	3 92	34	66 67
Michigan Central	3,012	80	2·72	85	.	.	3	3·53	5	5 88	62	72 94
Dominion Atlantic	580	32	2 97	71		.	9	12·67	.	..	30	42·5
Algoma Eastern	75	15	20·00	16			4	25·00			11	68 75
Algoma Central	370	16	4·05	21	.	.	6	28·57	2	9 50	10	47·62
Halifax and Southwestern	68	15	22·06	23		.	4	17·39	11	47·83	5	21 74
Chatham Wallaceburg & L. E.	9	7	77·78	12	1	8·33	1	8·33	1	8·33	8	66·67
	52,224	2,499	4·79	2,867	54	1·89	470	16 39	158	5·51	1,710	59 99

Name of Railway.	Ladders cent	Per defective	Sill steps	Per cent defective.	Height of couplers.	Per cent defective.	Miscel-laneous.	Per cent defective.
Canadian Pacific	46	4·14	77	6·01	2	0·18	75	6·74
Grand Trunk	22	2·41	35	3·84	3	0 33	65	7·14
Canadian Northern	20	4·45	29	6·46	.	.	36	8·02
Grand Trunk Pacific	.	.	1	1·51		....	16	24·24
Pere Marquette	.		..			.	2	4 00
Toronto Hamilton and Buffalo	1	1·96	2	3·92	1	1 96	2	3·92
Michigan Central	6	7·06	3	3·53		.	6	7·06
Dominion Atlantic	1	1·41	7	9·86	..	..	9	12·68
Algoma Eastern	.		.		..	.	1	6 00
Algoma Central	.	.	2	9·52	..		1	4 76
Halifax and Southwestern	1	4 35	1	4·35	..	....	1	4·35
Chatham Wallaceburg and Lake Erie			1	8·33		....	..	
	97	3·58	158	5·51	6	0·21	214	7·46

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STATEMENT No. 16.—Statement showing defective Safety Appliances on Freight Cars as reported by the Inspectors for year ending March 31, 1918.

COUPLERS AND PARTS.	
Coupler body broken	
Coupler body worn	
Guard arm short	
Knuckle broken	
Knuckle worn	1
Knuckle missing	6
Knuckle pin broken	
Knuckle pin wrong	1
Knuckle pin bent	
Knuckle pin missing	4
Lock block broken	3
Lock block worn	
Lock block wrong	
Lock block bent	
Lock block inoperative	
Lock block missing	1
Lock block key missing	
Lock block trigger missing	
Total	5
UNCOUPLING MECHANISM.	
Uncoupling lever broken	26
Uncoupling lever wrong	3
Uncoupling lever bent	28
Uncoupling lever incorrectly applied	3
Uncoupling lever missing	74
Uncoupling chain broken	279
Uncoupling chain too long	3
Uncoupling chain too short	
Uncoupling chain kinked	
Uncoupling chain missing	49
End casting broken	1
End casting wrong	
End casting bent	
End casting loose	
End casting incorrectly applied	
End casting missing	
Keeper broken	
Keeper wrong	
Keeper bent	
Keeper loose	
Keeper incorrectly applied	
Keeper missing	
Angle clip loose	4
Total	470
	fifiw
HANDHOLDS.	
Handhold broken	14
Handhold bent	94
Handhold loose	10
Handhold incorrectly applied	
Handhold missing	40
Total	158
	fifiw
HEIGHT OF COUPLERS.	
Coupler too high	
Coupler too low	4
Carrier Iron loose	2
Total	6

STATEMENT No. 16—*Continued.*

AIR BRAKES.

Triple Valve defective	
Triple Valve missing	
Reservoir defective	
Reservoir loose	
Cylinder defective	12
Cylinder loose	62
Cylinder and triple valve not cleaned within 12 months	10
Cylinder and triple valve not stencilled with date cleaning	
Cut out cock defective	44
Release cock defective	
Release cock missing	
Release rod broken	71
Release rod missing	22
Angle cock defective	104
Angle cock missing	3
Train pipe broken	28
Train pipe loose	43
Train pipe bracket missing	12
Cross-over pipe defective	14
Hose defective	1
Hose missing	51
Hose casket missing	75
Retaining valve defective	10
Retaining valve missing	
Retaining pipe defective	91
Retaining pipe missing	1
Brake rigging defective	80
Brake cut out	951
Brake cut out; card old	7
No brakes of any kind	18
Pump missing	
Total	1,710

LADDERS.

Ladder round broken	13
Ladder round bent	70
Ladder round loose	9
Ladder round missing	2
Ladder loose	2
Ladder incorrectly applied	1
Total	97

SILL STEPS.

Sill step broken	15
Sill step bent	127
Sill step loose	5
Sill step incorrectly applied	
Sill step missing	11
Total	158

MISCELLANEOUS.

Total	214
Grand total	2,867

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STATEMENT No. 17-A.—Statement of defects on Freight Cars, shown separately for each year, for five years ending March 31, 1918.

	1914	1915	1916	1917	1918	Total.
Couplers and parts	336	166	100	100	54	756
Uncoupling mechanism	1,606	886	551	548	470	4,061
Handholds	241	182	340	291	158	1,212
Air brakes	5,935	4,181	3,127	1,887	1,710	16,840
Ladders	647	417	151	99	97	1,411
Sill steps	485	301	213	195	158	1,352
Height of couplers	21		4	4	6	35
Micellaneous	1,511	876	565	371	214	3,537
Grand total	10,782	7,009	5,051	3,495	2,867	28,204

STATEMENT No. 17-B.—Statement of cars inspected and defective, shown separately for each year, for five years ending March 31, 1918.

	1914	1915	1916	1917	1918	Total
Cars inspected	110,407	105,485	77,491	58,073	52,224	402,680
Cars defective	9,989	6,578	4,541	2,957	2,499	26,564
Percentage defective	9·05	6·24	5·86	5·09	4·79	6·59

APPENDIX "D."

REPORT OF THE CHIEF FIRE INSPECTOR, CLYDE LEAVITT.

MARCH 31, 1918.

A. D. CARTWRIGHT, Esq.,
Secretary, Board of Railway Commissioners,
Ottawa, Ontario.

SIR.—Herewith I beg to submit, for the thirteenth annual report of the Board, the report of the Fire Inspection Department for year ending March 31, 1918.

The work of this department is more or less directly concerned with all of the 32,724 miles of railway lines in Canada subject to the Board's jurisdiction. Of this, 11,757 miles, or 36 per cent, is classified as forest sections, requiring the adoption of special patrol or other fire protective measures indicated in General Order No. 107. There are 12,228 miles, or 37 per cent of the total, in prairie sections, in the three prairie provinces, subject primarily to the Board's fire guard requirements. Of lines in settled districts, or non-forested lands, apart from the foregoing, there are 9,014 miles, or 27 per cent; here the special requirements are at a minimum, due to the relatively low fire hazard which exists.

ORGANIZATION.

During the past year, seventy-eight officials of the Dominion and provincial forestry and fire-protective organizations acted as local officers of this department, as follows:—

British Columbia Forest Branch	34
Dominion Parks Branch	6
Dominion Forestry Branch	7
Department of Agriculture of Alberta	3
Fire Commissioner's Department of Saskatchewan	2
Forestry Branch of Ontario	15
Forest Protection Branch of Quebec	9
Department of Lands and Mines of New Brunswick	2

RAILWAY FIRE PATROLS.

The special patrol requirements are now largely standardized, so that little variation is required from year to year. Such requirements are applicable to lines running through forest sections, where the fire hazard is relatively high. Due to war conditions, considerable difficulties were experienced by some of the companies in securing sufficient numbers of competent men for this work. Some trouble was also experienced in securing deliveries of power speeders, velocipedes, spare parts, and other necessary equipment.

FIRE STATISTICS.

Climatic conditions largely govern the forest fire situation, the fire hazard increasing in ratio to the periods of drought experienced. During 1917, Eastern Canada did not have drought periods of long duration, while in the West, particularly in British Columbia, this situation was reversed.

In British Columbia the fire hazard was highest south of the railway belt, was average up to the 53rd parallel, and below normal north of that line. The hazard was highest in the month of July when temperatures and wind velocity were high and

precipitation low. Of the grand total of railway fires reported for the Dominion, 59·52 per cent occurred in British Columbia; these fires burned over 28·73 per cent of the total area, and did 21·85 per cent of the total damage reported for fires along railway lines subject to the Board's jurisdiction throughout the Dominion.

The fire hazard in Manitoba, Saskatchewan and Alberta was highest during May, when 83 fires occurred along railway lines, this being approximately 51 per cent of the total, for these provinces, for the season. The hazard rose again in July, when 42 fires occurred.

In the western portion of Ontario, the hazard was high for a short period in May and during the early part of June. Throughout the rest of the season, and in the eastern portion of the province, conditions were very favourable and at no time during the season was the hazard serious.

The hazard in Quebec and the Maritime Provinces was at no time above normal and the season was favourable for fire protection.

During the season of 1917, 1,097 fires were reported as having originated within 300 feet of railway lines, subject to the Board's jurisdiction. Of these, 76·84 per cent are definitely attributed to railway agencies, 7·84 per cent to known causes other than railways, and 15·32 per cent to unknown causes. Of the total area burned over, amounting to 74,234 acres, 36·73 per cent is chargeable against the railways, 14·24 per cent to known causes other than railways, and 49·03 per cent to unknown causes. The total damage done is estimated at $105,668. Of this, the railways are definitely charged with 24·43 per cent, while 12·88 per cent of the damage is due to known causes other than railway, and 62·69 per cent to unknown causes.

It will be noted that while the railways are directly charged with 76·84 per cent of the total number of fires, these fires covered only 36·73 per cent of the total area burned and did only 24·43 per cent of the total damage. In addition, some of the fires of unknown origin were no doubt due to railway causes.

Of all fires reported, the causes are as follows:—

Locomotives	72·65 per cent
Railway employees	4·19 "
Tramps, etc.	2·00 "
Settlers	4·47 "
Other known causes	1·37 "
Unknown causes	15·32 "

Summary of Reports on Fires in Forest Sections originating within 300 feet of track on Railway Lines subject to the Jurisdiction of the Board of Railway Commissioners for Canada, Season of 1917.

	Canadian Pacific (Western Lines)(a)	Canadian Northern Western Lines	Grand Trunk Pacific	Great Northern (b)	Kettle Valley	Edmonton, Dunvegan and British Columbia	Canadian Pacific Eastern Lines).	Canadian Northern Eastern Lines(c)	Grand Trunk	Algoma Central and Hudson Bay.	Miscellaneous (d)	Totals.
A RAILWAY FIRES												
1. Number by Causes—												
(a) Locomotives, Class A fires	143	14	12	14	2	14	5	15	4		6	229
Locomotives, Class B fires	201	36	15	102	35	29	51	63	22		11	568
(b) Employees, Class A fires..	3	1		..		..		3	1		1	11
Employees, Class B fires..	3	7	1	..		3		12			4	35
(c) Total of Class A fires.	146	15	12	14	2	14	7	18	5		7	240
Total of Class B fires.	204	43	16	102	35	32	56	75	22		18	603
Total of all railway fires...	350	58	28	116	37	46	63	93	27		25	843
2. Areas burned (Acres)—												
(a) Young forest growth..	114	27	1	20	15	73	90	92	117		20	1,705
(b) Timber land.....	564	721	23	26	6	179	98	60	9		7	1,693
(c) Slashing or old burn.. ..	4,591	183	2	2,177	550	250	1,692	3,931	45		35	13,426
(d) Other classes of land..	929	595	174	910	312	6,708	626	42	74		69	10,149
(e) Total...	6,498	1,526	200	3,133	883	7,190	2,506	4,961	245		121	27,263
3. Value of property destroyed—												
(a) Young forest growth..	$ 405	$ 7	$ 3	$ 200	$ 15	$ 153	$ 47	$ 671	$ 18	....	$ 10	$ 1,559
(b) Standing timber..	460	1,439	77	33	..	68	291	260	..	....	100	2,728
(c) Forest products..	503	3,686		12,000	40	16	.	.	..	....	14	15,659
(d) Other property... ...	2,722	250		580	102	1,020	391	465	241	....	102	5,873
(e) Total..	$ 4,090	$ 4,782	$ 80	$12,813	$ 157	$ 1,257	$ 729	$ 1,396	$ 289		$ 226	$ 25,819
B. KNOWN CAUSES OTHER THAN RAILWAY FIRES.												
1. Number by Causes—												
(a) Campers and travellers Class A fires..	4	4				4						12
Campers and travellers— Class B fires...	1	2			1	5					1	10

(*b*) Settlers, Class A fires		2						2				4
Settlers, Class B fires		30	1		1	7	3	2			1	45
(*c*) Other known causes—												
Class A fires	1	1										2
Other known causes—												
Class B fires		2			2	3	1	5				13
(*d*) Total of Class A fires	5	7				4		2				18
Total of Class B fires	1	34	1		4	15	4	7			2	68
Total of all known causes.	6	41	1		4	19	4	9			2	86
2. Areas burned (Acres)—												
(*a*) Young forest growth		1,970				64		4				2,038
(*b*) Timber land		1,631	20		2	93						1,746
(*c*) Slashing or old burn			60		1,304	103	8	503			1	1,979
(*d*) Other classes of land	1	2,825			1,300	683					2	4,811
(*e*) Total	1	6,426	80		2,606	943	8	507			3	10,574
3. Value of property destroyed—												
(*a*) Young forest growth		$ 5,900	$		$.....	$ 87		$ 15	$		$	$ 6,002
(*b*) Standing timber		4,120			15	192						4,327
(*c*) Forest products		2,196	105					240				2,541
(*d*) Other property		405			325	7			6		1	738
(*e*) Total		$12,621	$ 105		$ 340	$ 286		$ 255	$ 6		$ 1	$ 13,608
C. Fires of Unknown Origin.												
1. Number—												
(*a*) Total of Class A fires	26	1	2		1		3	13	1		2	49
(*b*) Total of Class B fires	14	25	9		6		31	26	2	1	5	119
(*c*) Total of all unknown fires	40	26	11		7		34	39	3	1	7	168
2. Areas burned (Acres)—												
(*a*) Young forest growth		50					38	9				97
(*b*) Timber land	50	20,150	60		4		16					20,280
(*c*) Slashing or old burn	2,502	64	3,104		1,360		4,917	1,797	35	1	101	13,881
(*d*) Other classes of land	33	1,861			59		151	24			11	2,139
(*e*) Total	2,585	22,125	3,164		1,423		5,122	1,830	35	1	112	36,397
3. Value of property destroyed—												
(*a*) Young forest growth	$	$ 52	$		$		$ 14	$ 20	$	$	$	$ 86
(*b*) Standing timber	360	59,102	330		25		145					59,952
(*c*) Forest products	520	307							37	61	2,383	3,308
(*d*) Other property	610	1,000					545	740				2,895
(*e*) Total	$ 1,480	$60,461	$ 330		$ 25		$ 704	$ 760	$ 37	$ 61	$ 2,383	$ 66,241

Summary of Reports on Fires in Forest Sections, etc.—*Continued.*

	Canadian Pacific (Western Lines) (a)	Canadian Northern (Western Lines) (b)	Grand Trunk Pacific	Great Northern (b)	Kettle Valley	Edmonton Dunvegan and British Columbia	Canadian Pacific (Eastern Lines) (c)	Canadian Northern (Eastern Lines) (c)	Grand Trunk	Algoma Central and Hudson Bay.	Miscellaneous.	Totals.
D. Grand Totals for All Causes												
1. *Number*—												
(a) Total of all Class A fires.	177	23	14	14	3	18	10	33	6		9	307
(b) Total of all Class B fires	219	102	26	102	45	47	91	108	24	1	25	790
(c) Total of all fires reported	396	125	40	116	48	65	101	141	30	1	34	1,097
2. *Areas burned* (Acres)—												
(a) Young forest growth	414	2,047	1	20	15	137	128	941	117		20	3,840
(b) Timber land	614	22,502	103	26	12	272	114	60	9		7	23,719
(c) Slashing or old burn	7,693	247	3,166	2,177	3,214	333	6,617	6,231	80	1	127	29,286
(d) Other classes of land	963	5,281	174	910	1,671	7,391	777	66	74		82	17,389
(e) Total	9,084	30,077	3,444	3,133	4,912	8,133	7,636	7,298	280	$ 1	236	74,234
Value of Property Destroyed—												
(a) Young forest growth	$ 465	$ 5,959	$ 3	$ 200	$ 15	$ 240	$ 61	$ 706	$ 48		$ 10	$ 7,647
(b) Standing timber	810	64,661	107	33	40	260	456	260			100	67,007
(c) Forest products	1,023	5,589	105	12,000	40	16		240	37	61	2,397	21,508
(d) Other property	3,272	1,655		580	427	1,027	936	1,205	241		103	9,506
(e) Total	$ 5,570	$77,864	$ 515	$12,813	522	$ 1,543	$ 1,433	$ 2,411	$ 326	$ 61	$ 2,610	$105,668

(a) Includes Esquimalt and Nanaimo Railway.
(b) Includes Victoria and Sidney Railway.
(c) Includes Halifax and South Western Railway.
(d) Includes following lines: Algoma Eastern, Atlantic, Quebec and Western and Quebec Oriental; Boston and Maine, Dominion Atlantic, Maine Central, Quebec, Montreal and Southern, Temiscouata, Western Power Company of Canada, White Pass and Yukon.
(e) Note.—No fires were reported during 1917 as originating within 300 feet of track along the following lines:—Cumberland Railway and Coal Company, Elgin and Havelock, Grand Trunk in Quebec, Moncton and Buctouche, Ottawa and New York, Salisbury and Albert, St. Martins, Temiscouata (in New Brunswick).
Class A fires are those which cover an area of less than one-fourth acre.
Class B fires are those which cover an area of one-fourth acre or more.

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INSPECTION OF FIRE PROTECTIVE APPLIANCES ON LOCOMOTIVES.

Inspectors in this department examined fire protective appliances on 973 locomotives, operating in forested territory. Of these, 20 per cent were found defective. In most cases, the defects were of a minor character. This work is handled under a co-operative arrangement with the Operating Department, and supplements the work of that department.

FIRE GUARD STATISTICS.

During the past year there were 14,188·13 miles of track subject to the board's jurisdiction in the three prairie provinces, an increase of 258·94 miles over 1916. Since fire-guard mileage is double the track mileage, this represents 28,376·66 fire-guard miles, of which, however, a portion is in forest sections, where fire-guard construction is impracticable.

The following statistical summary shows that 10,994·26 miles of fire guards were constructed or maintained during the past year, while, for various reasons, 17,382·40 miles were not constructed. Of this, 7,899·44 miles were exempted by this department, on the basis of specific showing made that fire-guard construction is impracticable or unnecessary. A total of 6,516·21 miles were not constructed for the several specific reasons indicated in the table, and accepted as relieving the railway companies of responsibility for the construction of fire guards. This leaves 2,966·75 miles not definitely accounted for, and includes the mileage which should have been constructed but was not, largely due to the labour shortage.

Summary of Fire Guard Construction and Maintenance by Railways in the Provinces of Alberta, Saskatchewan and Manitoba, 1917.

—	Edmonton, Dunvegan and British Columbia.	Great Northern.	Grand Trunk Pacific.	Canadian Northern.	Canadian Pacific.	Totals.
Length in track miles	407·60	162·38	1,984·60	5,229·30	6,404·45	14,188·33
Length in fire guard miles[1]	815·20	324·76	3,969·20	10,458·60	12,808·90	28,376·66
Fire guards constructed (shown in fire guard miles)—						
a. Grain stubble lands { Fireguarded	..	86·00	74·20	1,158·90	1,530·19	2,849·29
b. Cultivated hay, " { by owner.	.....	....	2.70	302·40	62·24	367·34
c. Fenced grazing lands	.....	192·25	456·00	572·70	1,687·97	2,908·92
d. Wild lands	0·53	0·50	760·70	1,463·40	2,643·58	4,868·71
Total miles of fire guard constructed	0·53	278·75	1,293·60	3,497·40	5,923·98	10,994·26
Fire guards not constructed (shown in fire guard miles)—						
Exemptions[2]	731·99	36·00	1,185·40	3,462·60	2,483·45	7,899·44
Owner refused to allow construction[3]	.....	.....	3·80	44·20	18·50	66·50
Unnecessary, land already plowed[4]	9·78	2·00	346·30	828·40	1,135·81	2,322·29
Grain stubble lands { not fireguarded	22·45	.....	847·10	1,208·00	1,770·84	3,848·39
Cultivated hay " { by owner[5].	3·83	...	7·40	194·50	73·30	279·03
Miscellaneous other reasons	46·62	8·01	285·60	1,223·50	1,403·02	2,966·75
Total miles of fire guards not constructed	814·67	46·01	2,675·60	6,961·20	6,884·92	17,382·40

[1] Fire guard mileage is double the track mileage, since the construction of fire guards is required on both sides of the track.

[2] Company exempted from fire guard construction, as to portions of line where showing made that such construction is unnecessary or impracticable.

[3] Employees of railway company refused permission, by owner, to enter upon land for purpose of constructing fire guards.

[4] Fire guarding unnecessary, because fields already plowed.

[5] Fire guarding in grain stubble and in cultivated hay lands required only where the land owner or occupant would undertake to plow guard at the reasonable price specified by the Board.

FIRE GUARDS.

The fire guard requirements issued for 1917 were substantially identical with those prescribed in 1915 and 1916. An additional clause was, however, included under section E, "Additional Provisions," drawing attention to regulation 8 (*g*) of General Order No. 107, *re* closing of gates and the cutting and leaving of fences down by railway companies' agents, employees, and contractors.

With the idea of facilitating experiments looking toward a reduction in the cost of fire guard construction and maintenance, and after taking the matter up fully with all concerned, authority was granted the Canadian Pacific, Grand Trunk Pacific, and Canadian Northern Railways to handle the fire-guarding of wild lands, along certain of the more northerly lines of these companies in the prairie provinces, on the basis of an eight-foot plowed strip instead of a sixteen-foot plowed strip, supplemented by special attention to the burning of dry grass and weeds between the fire guard and the track. These experiments will be continued during the ensuing year.

COMPLAINTS *re* FIRE GUARDS.

During the past year five specific complaints were received *re* the construction and maintenance of fire guards, as follows:—

Fire guards not established in accordance with fire-guard requirements: C.P.R., one; G.T.P., one.

Non-payment of land owner by railway company for plowing guards in grain stubble land, under clause 2, section A, of fire guard requirements: C.N.R., one.

Two applications were received from railway companies under clause 4, section C, fire guard requirements, for permission to enter upon lands to plow fire guards, in cases where the land owner had refused permission to the company for such construction. One such application from the G.T.P. Ry. was refused, on the basis that fire guard construction was not necessary in the public interest. One other such application made by the C.N.R. was granted under Order No. 26,829, dated December 14, 1917.

RIGHT OF WAY CLEARING.

The acute shortage of labour has, in many cases, unavoidably interfered with right of way clearing, under section 297 of the Railway Act.

APPENDIX "E."

RECORD ROOM.

List of Cases appealed to the Supreme Court of Canada, February 1, 1904, to March 31, 1918.

File No.	Subject.	Decision.
1114	Montreal Terminal Railway *vs.* Montreal Street Railway, Pius IX Ave. crossing, Montreal, Que. Question of jurisdiction	Allowed.
1492	James Bay Railway *vs.* Grand Trunk Railway crossing, Belt Line spur. Question of law	Dismissed.
383	Ottawa Electric Railway and city of Ottawa *vs.* Canada Atlantic Railway, *re* Bank Street subway, Ottawa. Question of law	Dismissed.
588	*Re* Toronto Union Station. A. R. Williams expropriation. Question of jurisdiction	Dismissed.
16040 1309	Robinson *vs.* Grand Trunk Railway, two-cent rate. Question of law.	Dismissed.
689	Canadian Pacific Railway *vs.* Grand Trunk Railway, *re* branch line, London, Ont. Question of jurisdiction	Dismissed.
C 1680	Essex Terminal and Windsor, Essex and Lake Shore Railroad, crossing in Township of Sandwich, Ont. Question of law	Dismissed.
1497	T. D. Robinson *vs.* Canadian Northern Railway spur at Winnipeg. Question of jurisdiction	Dismissed.
9527	Montreal Street Railway *re* rates Montreal Royal ward. Question o jurisdiction	Allowed.
C 4719	Department of Agriculture, province of Ontario, *vs.* Grand Trunk Railway, station at Vineland. Question of jurisdiction	Dismissed.
C 3322	*Re* Toronto Viaduct. Appeal by the Canadian Pacific Railway Company. Question of law	Dismissed.
C 4897	*Re* fencing and cattleguards, Order No. 7473. Appeal by the Canadian Northern Railway Co. Question of jurisdiction	Allowed in part.
C 4492	City of Toronto *vs.* Grand Trunk Railway and Canadian Pacific Railway Companies. Question of law	Referred back to Board.
C 2545	City of Ottawa and county of Carleton, Richmond Road viaduct. Question of jurisdiction	Dismissed.
13079	Grand Trunk Railway *vs.* Canadian Northern Ontario Railway. Spur in township of Scarboro, Ont. Question of jurisdiction	Dismissed.
C 3269	Grand Trunk *vs.* British American Oil Companies. Oil rates. Question of law	Dismissed.
1519	Grand Trunk Pacific Railway *vs.* city of Fort William, *re* location. Question of jurisdiction	Dismissed.
11965	Nigara, St. Catharines and Toronto Railway *vs.* Davy. Question of jurisdiction	Allowed.
9527	Montreal Street Railway (Montreal Park and Island Railway), *re* rates, Mount Royal ward. Question of jurisdiction	Allowed.
15580	Clover Bar Coal Company, Ltd., and Wm. Humberstone *vs.* Grand Trunk Pacific Railway Company and the Clover Bar Sand and Gravel Company	Allowed.
12682	Regina Rate Case	Dismissed.
17963	Grand Trunk Pacific Railway *vs.* A. E. Purcell, of Saskatoon, Sask Question of jurisdiction	Dismissed.
C 3269	Canadian Pacific Railway Companies *vs.* British American Oil Companies. Question of jurisdiction	Dismissed.
15330 15330.1	Grand Trunk and Canadian Pacific Railway Companies *vs.* Canadian Oil Companies. Question of jurisdiction	Dismissed.
20062	British Columbia Electric Railway Company, Vancouver, Victoria and Eastern Railway Company *vs.* city of Vancouver. Question of jurisdiction	Dismissed.
1487	E. B. Chambers and W. B. G. Phair *vs.* Canadian Pacific Railway Company. Question of jurisdiction	Allowed.
18578	Canadian Nor hern Railway Company *vs.* William A. Taylor. Question of jurisdiction	Dismissed.
19435	Grand Trunk Railway Company *vs.* city of Edmonton, Alta. Question of law	Dismissed.

LIST of Cases appealed to the Supreme Court of Canada, February 1, 1904, to March 31, 1918—*Concluded.*

File No.	Subject.	Decision.
1750.34	Canadian Pacic Railway Company vs. Grand Trunk Railway. Appeal by Canadian Pacific Railway. Question of law.....	Dismissed.
14329.9	Montreal Tramway and Montreal, Park and Island Railway vs. Lachine, Jacques Cartier and Maisonneuve Railway. Question of jurisdiction.	Allowed.
[illegible]	City of Hamilton vs. Toronto, Hamilton and Buffalo Railway. Appeal by T. H. & B. Ry. Question of jurisdiction.....	Allowed.
21428	Grand Trunk Railway vs. Hepworth Silica Pressed Brick Co. Question of law	Dismissed.
12021.70 [illegible]	Toronto Railway Company and the city of Toronto and the Canadian Pacific Railway Company. Questions of law and of jurisdiction...	Dismissed.
C 3935	City of Edmonton vs. Calgary and Edmonton Railway. Question of law.	Dismissed.
16171	Ingersoll Telephone Company (and other independent telephone companies) vs. Bell Telephone Company. Question of law.....	Dismissed.
27524	Grand Trunk Railway vs. H. Bourassa of Laprairie, Que., against Order No. 26387, dated July 26, 1917. Questions of jurisdiction and law	Pending.
[illegible]	Application of the Great Northern Telegraph Company for opinion of Supreme Court of Canada upon a question of law involved in matter of General Order No. 162.....	Pending.
27840	Government of Manitoba and J. H. Ashdown Hardware Co., Ltd., of Winnipeg, against Judgment of the Board *re* 15 per cent general increase in freight and passenger rates. Also appeal from the Canadian Northern Railway Company. Question of jurisdiction.....	Pending.
26981	Appeal of the Canadian Pacific Railway Co. from an Order of the Board issued in the matter of application of the Department of Public Works province of Ontario, *re* highway crossing between lots 8 and 9, Co. 5, township of Kirkpatrick, Ont. Question of jurisdiction.....	Pending.

SUMMARY.

Appeals dismissed.....	25
Appeals allowed.....	10
Appeals pending.....	4
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LIST of Appeals to the Governor in Council, February 1, 1904, to March 31, 1918.

File No.	Subject.	Decision.
399	Bay of Quinte Railway crossing C.P.R. at Tweed, Ont.	Dismissed.
1455	James Bay Railway *vs.* Grand Trunk Railway crossing near Beaverton, Ont.	Dismissed.
1781..	Grand Trunk Railway Company *vs.* city of Chatham, Ont., street crossings.	Dismissed.
12992	Maniwaki Branch of the Canadian Pacific Railway, train service from Ottawa . .	Judgment not rendered. Matter referred back to Board.
2030	*Re* Tariffs of certain Yukon Railway.	Dismissed.
17716	Canadian Pacific Railway Longue Pointe spur through town of Maisonneuve, Que.	Dismissed.
18787	South Hazelton townsite *vs.* Grand Trunk Pacific Railway.	Allowed.
3452 30	J. Y. Rochester *re* Cameron Bay *vs.* Grand Trunk Pacific Railway.	Dismissed.
12912	Park Avenue Subway, town of St. Louis, Que., *vs.* Canadian Pacific Railway	Dismissed.
17040	Lambton to Weston spur and Canadian Pacific Railway company.	No formal order.
C 3322	Toronto Viaduct case.	Dismissed.
12021.70	City of Toronto, *re* Toronto North Grade separation.	Dismissed.
16177	Canadian Pacific Railway *vs.* Mountain Lumber Manufacturers' Association, *re* lumber rates.	Withdrawn.
19024	Charles Miller of Toronto *vs.* Grand Trunk Pacific Railway, *re* station at Prince George, B.C.	Dismissed.
17716.10	Canadian Pacific Railway *vs.* town of Maisonneuve, Que., *re* highway crossings.	Dismissed.
22681.25	City of Montreal, Que., *vs.* Canadian Northern Railway, siding across Stadacona and Marlboro streets, Montreal, Que.	Pending.
21418	City of Prince George, B.C., *re* location of Grand Trunk Pacific Railway station between Oak and Ash streets, Prince George, B.C.	Dismissed.
21660	Canadian Northern Ontario Railway *vs.* township of Loughboro, Ont.	Dismissed.
26169	Canadian Pacific and Canadian Northern Railway Companies, *re* interswitching at Eastern Public Cattle market, Montreal, Que.	Pending.
17040	Appeal of the Canadian Pacific Railway Company *re* Lambton to Weston spur. (Second appeal).	Dismissed.
27693	City of Hamilton *vs.* Grand Trunk Railway, in the matter of Order No. 26787, and of passenger train service on the Northern and Northwestern branch between Hamilton and Burlington Beach and town of Burlington, Ont.	Pending.
27840	Appeal of the Winnipeg Board of Trade against Order of Board authorizing a general increase of 15 per cent in freight and passenger rates...	Pending.

SUMMARY.

Appeals dismissed	14
Appeals allowed	1
Appeals withdrawn	3
Appeals pending	4
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APPENDIX "F."

GENERAL ORDERS AND CIRCULARS.

CIRCULAR No. 152.

Foot Boards on locomotives used in joint yard and transfer service.

OTTAWA, April 24, 1917.

The question has been raised as to whether a road locomotive used in joint yard and transfer service should be equipped with foot-boards, as outlined in general order No. 102.

Railway companies subject to the jurisdiction of the Board, are hereby instructed that all locomotives used in yard, joint yard and transfer service must be equipped with foot-boards, as prescribed for steam locomotives used in switching service.

By Order of the Board,

A. D. CARTWRIGHT,
Secretary.

CIRCULAR No. 153.

File 27896.

MAY 12, 1917.

The Board requires that railway companies, subject to its jurisdiction, shall make a report to the Chief Operating Officer of the Board at Ottawa, on the first and 15th day of each month, on the condition of the car supply on their respective lines, giving the information called for on the attached forms, in the order and form as set forth therein.

By Order of the Board,

A. D. CARTWRIGHT,
Secretary.

1st. The total number of cars under load with revenue freight at stations; the different kind of cars being shown separately, namely: Box cars, stock cars, refrigerator cars, coal cars, flat cars, other cars.

2nd. The total number of loaded cars in transit, either in trains or at stations.

3rd. The total number of empty cars under the different headings, namely: Box, stock, refrigerator, coal, flat, other.

4th. The total demand for empty cars for loading, as per the daily orders, under the different headings: Box, stock, refrigerator, coal, flat, other.

5th. The total shortage or surplus, as the case may be, to be set out.

6th. The number of idle cars, if any, under the different headings.

NOTE.—An idle car means a car that has not been moved on account of there being no demand for it.

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7th. The total number of cars, under the different headings, held for repairs.

	Loaded Cars.		Empty Cars.				
	Inwards at Stations.	In Transit in Trains and at Stations.	In Transit and at Stations.	Shortage.	Surplus.	Idle.	Repairs.
Box							
Stock							
Refrigerator							
Coal							
Flat							
Others							
Total							

N.B.—Loaded cars in transit. Give total of all loaded cars only.

CIRCULAR No. 154.

Car Movements and Efficient Handling.

File No. 28192.

September 19, 1917.

War conditions interfere with car movements. The weather conditions of winter last year increased the congestion, and the coming winter may repeat this. Additional freight cars can be obtained only with great difficulty. Prompt deliveries of new rolling stock do not exist.

If each freight car does more work the difficulty can be faced and overcome. A freight car saved is a freight car gained for extra service. More service per car equals more cars in service. If all shippers load to full capacity or better, to 110 per cent when practicable, car shortage will largely disappear.

Railways by cutting out road delays and by improved handling in terminals can make each car do more work.

Prompt and heavy loading of cars gives more service per car. So also does prompt release of cars. Consignors and consignees are interested in getting cars. Their co-operation in efficient car handling will help not only others but themselves as well.

A. D. CARTWRIGHT,
Secretary.

CIRCULAR No. 155.

Motor Accidents at Level Crossings.

Ottawa, October 15, 1917.

In view of the increasing number of accidents at level crossings in Ontario to persons travelling in motors, the Board desires that a discussion should be had, in which the different motor associations, municipalities, and railways interested should take part, and the best possible methods and protection in the interest of public safety be adopted.

Without in any way limiting the discussion, the following questions should be considered:—

1. The matter of the view from the highway of any approaching trains.

Factors to be considered from the motorist's standpoint are the speed and braking efficiency of the motors having regard to the fact that the motor must be stopped after the train is seen.

2. Whether or not there is any difficulty in seeing the standard railway crossing sign from motors, and whether additional post signs on the road would assist in obviating accidents, for example, warning posts placed at some distance from the crossing, or posts placed in centre of the highway, about fifty feet from crossing?

3. Whether humps or hogs-backs should be placed on the road, so as to compel motorists to bring down the speed of their cars to a rate at which they may safely proceed?

4. Ought motors be brought to a stop before crossing?

5. Bells or wig-wag signals—which are of the greater benefit to motorists?

6. Can any change be made in railway regulations which, without injuring the efficiency of the public service, will promote safety?

7. Ought the regulation whistle signals be given closer to the highway, or any change be made in the use of the signal or the bell?

Written submissions may be sent by the post to the Board at Ottawa, and in addition the matter may be spoken to at any meeting of the Board.

By Order of the Board,

A. D. CARTWRIGHT,
Secretary.

CIRCULAR No. 156.

File 9437.292.

Standardized Metal Warning Signs for Grade Crossings.

January 15, 1918

The Board's inquiry into a recent accident at a highway crossing protected by a watchman brought out the fact that the occupants of the automobile evidently became confused in the signals given by the watchman.

The Board is impressed with the necessity of railway companies adopting some standard signal other than the style of flag now in use by crossing watchmen.

Railway companies are, therefore, directed to consider the adoption of a metal disc, 16 inches in diameter, having a white ground with the word "Stop" in large letters in black thereon, filing their comments with the Board within thirty days of the date of this circular.

By Order of the Board,

A. D. CARTWRIGHT,
Secretary.

SESSIONAL PAPER No. 20c

CIRCULAR No. 157.

Standard distance between track centres for construction of divisional points, terminal sorting yards and sidings.

File No. 28290.

January 21, 1918.

The Board is considering the advisability of establishing a standard distance between track centres for the construction of divisional points, terminal sorting yards, and sidings, which will provide a safe and satisfactory clearance for the movements of trainmen and yardmen in the performance of their duties.

Railway companies subject to the jurisdiction of the Board are requested to file their views upon the matter within thirty days from this date, stating what clearance, in their opinion, would provide the necessary room between moving cars for the men referred to while carrying on their work.

By Order of the Board,

A. D. CARTWRIGHT,
Secretary.

CIRCULAR No. 158.

Heating of waiting rooms at railway stations where there is no night staff.

File 28281.1.

February 11, 1918.

Railway companies subject to the jurisdiction of the Board are directed to show cause, within thirty days of the receipt of this circular, why an Order should not issue requiring all companies, at agency stations where there is no night staff, to open station waiting rooms and, when necessary, provide heat and light, at least thirty minutes prior to the scheduled arriving time of all passenger trains and to keep the waiting rooms open until the departure thereof, irrespective of whether the trains are on schedule time or not.

By Order of the Board,

A. D. CARTWRIGHT,
Secretary.

CIRCULAR No. 159.

Fire Extinguishers in passenger cars on electric railway lines.

Case 1858.

February 25, 1918.

The Board is considering the advisability of requiring electric railways subject to its jurisdiction to provide fire extinguishing apparatus in passenger-carrying cars, including therein combination cars, if any.

Electric railway companies are therefore directed to show cause within thirty days of the receipt of this circular, why such a requirement should not be made effective.

By Order of the Board,

A. D. CARTWRIGHT,
Secretary.

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9 GEORGE V, A. 1919

CIRCULAR No. 160.

File No. 27840.7.

February 27, 1918.

I am directed to announce to all concerned that the reference to common clay and sand, gravel and crushed stone, at page 439, vol. VII, No. 20, of the fortnightly publication of Judgments, Orders, Regulations and Rulings of the Board, dated January 8, 1918, containing the judgment dated December 26, 1917, in the so-called 15-per-cent case, was intended to be understood in the collective and not the particular sense; that is to say, the specific increase of not more than 5 cents a ton is to be understood to apply to all the commodities which have hitherto been carried under the special mileage scale, or under specific commodity items of the tariffs, at the same rates as those particularized in the judgment.

I am also directed to say that any tariffs in conflict with this announcement which have already been filed to take effect on the 15th March next, or which, bearing an earlier effective date, have been postponed in compliance with the Order in Council, must be amended in accordance herewith.

By Order of the Board,

A. D. CARTWRIGHT,
Secretary.

CIRCULAR No. 161.

Reporting of railway accidents under Order No. 7472.

File 10895.

[illegible], 1918.

I enclose copy of revised form schedule "A" adopted by the Board for use of railway companies subject to its jurisdiction in making returns of accidents required by Order No. 7472, dated July 8, 1909, and am directed to state that this form is to be used by railway companies as soon as their existing supply of forms is exhausted.

By Order of the Board,

A. D. CARTWRIGHT,
[illegible]

RAILWAY SYSTEM.

SCHEDULE "A."

TO THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Return required by Order No. 7472, dated July 8, 1909, pursuant to chapter 32 of 8 and 9 Edward VII:—

1. Date and hour of accident.

2. Train. Conductor | | Engine |
Engineer

3. Province.

4. *Place of accident*—
State if in city, town, village or township.
If in city, town or village, give name of street; if no name, say how many crossings from station specifying direction.
If in township, give distance in miles and fraction of mile from nearest station, specifying direction, also give distance of nearest mile post of subdivision and any other information of an identifying character.

---

5. (*a*) Particulars of accident.
(*b*) Names of persons injured or killed and addresses.

---

6. Was crossing protected at time of accident, and if so, in what manner.

---

7. Time and date, speed limitation of ten miles an hour established or watchman put on as required by sec. 275 (subsec. 4) and General Order 77.

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8. If any previous accident at same place subsequent to 1900, give date, if more than one accident, give date of last one only.

---

9. Remarks covering any other information that the company thinks should be submitted not covered by the foregoing details.

I certify that from inquiries made by me, or my knowledge, the foregoing return is correct.

Place..... Signature.....

Date ..... Title.....

CIRCULAR No. 162.

Standardizing of crews for the operation of freight trains on electric railways.

File 28517.

The Board desires to be informed of the practice of electric railways subject to its jurisdiction with regard to the crews of electric freght locomotives, and if in the operation of such motors—whether switching or in road service—the crew consists of two men the same as a steam locomotive, or but one man on the engine.

You are requested to file your submissions in the matter within thirty days of the date of this circular.

By order of the Board.

A. D. CARTWRIGHT,
Secretary.

GENERAL ORDER No. 186.

In the matter of the complaints of the Dominion Millers' Association and the Toronto Board of Trade against the increased carload minimum weights on grain and grain products for domestic consumption published by the railway companies to take effect April 2, 1917, in the following schedules, namely:—

Canadian Pacific Railway Company:

Supplement 35 to C.R.C. No. E. 1196.
Supplement 47 to C.R.C. No. E. 2480.
Supplement 41 to C.R.C. No. E. 2715.
Supplement 8 to C.R.C. No. E. 2907.
Supplement 7 to C.R.C. No. E. 3120.

Grand Trunk Railway Company:

Supplement 25 to C.R.C. No. E. 1087.
Supplement 42 to C.R.C. No. E. 2566.
Supplement 5 to C.R.C. No. E. 3041.
Supplement 7 to C.R.C. No. E. 3289.

together with similar schedules published and filed by other railway companies.

File No. 19475.37.

Upon hearing the complaints at the sittings of the Board held in Ottawa, March 20, 1917, the Canadian Pacific, Grand Trunk, and Canadian Northern Railway Companies, the Canadian Freight Association, the Dominion Millers' Association, and the Boards of Trade of Montreal and Toronto being represented at the hearing, and what was alleged,—

It is ordered:

1. That, excepting flour, the complaints against the minimum weights be, and they are hereby, dismissed.

2. That the proposed minimum weight of 50,000 pounds per car for flour when loaded in cars of the capacity of 60,000 pounds or 70,000 pounds be, and it is hereby, disallowed.

3. That the complaints against the minimum weights for flour when loaded in cars of the capacity of 80,000 pounds or 100,000 pounds be, and they are hereby dismissed.

4. That the railway companies be permitted to increase the minimum weight for flour to 45,000 pounds per car when loaded in cars of the capacity of 60,000 pounds or 70,000 pounds.

5. That the minimum weight authorized by clause 4 hereof, also the minimum weights for flour in cars of greater capacity and for other grain products, be not made effective before April 30, 1917.

6. That should the railway company, for its own convenience, furnish a larger capacity car in lieu of a car of 60,000 pounds or 70,000 pounds capacity required by the shipper, the minimum weight shall be that for the car so required, provided that the weight actually loaded does not exceed the maximum load for the type of car so required.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, April 4, 1917.

GENERAL ORDER No. 187.

In the matter of the complaints of the Boards of Trade of Vancouver, Edmonton and Winnipeg, the Saskatchewan Branch of the Retail Merchants' Association of Canada, Inc., the Montreal Board of Trade and the Canadian Manufacturers' Association, against the proposed increase in the "rail-and-water" rates between Eastern and Western Canada:

File No. 27752.

Upon reading what is filed in support of the complaints and on behalf of the railway companies,—

It is ordered: That the through rail-and-water class rates applying between eastern and western Canada, and the through rail-and-water commodity rates from eastern to western Canada, via Port Arthur, Fort William or Westfort; also the rail-and-water commodity rates from eastern Canada to Port Arthur, Fort William or Westfort, for furtherance, named in tariffs C.R.C. Nos. 1 and 2, published by G. C. Ransom, agent, to become effective April 23, 1917, be, and they are hereby, suspended pending a hearing by the Board.

And it is further ordered: That the through rail-and-water class rates applying between eastern and western Canada, and the through rail-and-water commodity rates from eastern to western Canada, via Port Arthur, Fort William or Westfort; also the rail-and-water commodity rates to Port Arthur, Fort William or Westfort, Ont., for furtherance, in effect immediately prior to the close of navigation in 1916, be restored and continued in effect until further order of the Board.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, April 12, 1917.

GENERAL ORDER No. 188.

In the matter of the complaint of the Brotherhood of Locomotive Engineers alleging that the Canadian Pacific and the Canadian Northern Railway Companies have wilfully violated the flagging rules in force on their respective systems in the operation of trains in Western Canada; and applying for the adoption of certain regulations by the Board, having in view the protection of employees of the railway companies subject to the jurisdiction of the Board.

File No. 4135·25.

Upon reading the communications and submissions filed on behalf of certain of the railway companies interested and the complainants, and the report and recom-

mendation of the Chief Engineer and the Chief Operating Officer of the Board after a conference between the Board's officers and representatives of the Grand Trunk, Grand Trunk Pacific, Canadian Pacific, Canadian Northern, and Toronto, Hamilton & Buffalo Railway Companies, the Michigan Central Railroad Company, the complainants, the Brotherhood of Locomotive Firemen and Enginemen, the Brotherhood of Railroad Trainmen, the Order of Railroad Conductors, the Order of Railway Telegraphers, and the International Brotherhood of Maintenance of Way Employees held in the city of Toronto on the 4th day of August, 1915, upon notice to the parties in interest; and in pursuance of the powers conferred upon it under sections 26, 30, 268, and 269 of the Railway Act, and of all other powers possessed by the Board under the said Act,—

It is ordered: That the following regulations for the Uniform Maintenance of Way Flagging Rules for Impassable Track, to become effective June 1, 1917, be, and they are hereby, prescribed for the observance of every railway company within the legislative authority of the Parliament of Canada.

RULES.

1. Before undertaking any work which will render the track impassable, or if rendered impassable from any cause or defect, trackmen, bridgemen, or other employees of the company shall protect the same as follows:—

2. (*a*) On double track; (*b*) on three or more tracks; (*c*) in mountain territory; and (*d*) on all lines with frequent or fast train service,—

Send out a flagman in each direction with stop signals, at least—

1,500 feet in daytime, if there is no down grade towards the obstruction within one mile, and there is a clear view of 6,000 feet from an approaching train.

3,600 feet at other times and places, if there is no down grade towards the obstruction within one mile.

5,400 feet if there is a down grade towards the obstruction within one mile.

The flagman must, after going the required distance from the obstruction to ensure full protection, take up a position where there will be an unobstructed view of him from an approaching train of, if possible, 1,500 feet, first placing two torpedoes on the rail (not more than 200 or less than 100 feet apart), on the same side as the engineer of an approaching train, 300 feet beyond such position. The flagman must display a red flag by day and a red light by night, and remain in such position until recalled or relieved.

3. On other lines,—

(*a*) By day place a red flag and, in addition, by night a red light, on the same side of the track as the engineer of an approaching train at a point 600 feet from the defective or working point, with two torpedoes placed on the rail opposite each other so as to cause but one explosion, 150 feet in advance of the red signal, and provide further protection as follows:—

(*b*) By day place a red flag supported on two staffs with flag drawn out between them, at right angles to the track and five feet above rail level; and, in addition, by night, a red light—on the same side of the track as the engineer of an approaching train, so that it will be clearly in his view, at least—

3,600 feet from the defective or working point, if there is no down grade towards the obstruction.

5,400 feet if there is a down grade within one mile of the obstruction, or as much farther as may be necessary to insure full protection.

(*c*) Place two torpedoes (not more than 200 or less than 100 feet apart) on the rail on the same side as the engineer of an approaching train, 300 feet in advance of the red signal.

4. Trains stopped by flagman, as per rule 2, shall be governed by his instructions and proceed to the working point, and there be governed by signal or instructions of the foreman in charge.

5. Trains stopped by red signal, as per rule 3, shall replace the torpedoes exploded and proceed to the working point signal, and there be governed by signal or instructions of the foreman in charge, unless in the meantime stop signal has been removed.

6. In the event of train order protection being provided, the defective or working point may be marked by signals placed in both directions, as follows:—

Yellow flags by day and, in addition, yellow lights by night, 3,600 feet from the defective or working point; red flags by day and, in addition, red lights by night, 600 feet from the defective or working point, on the same side of the track as the engineer of an approaching train; except on double track, where trains run to the left, in which case signals shall be placed to the left-hand side as seen by an engineer of an approaching train, and there is a clear view of at least 1,200 feet.

7. When weather or other conditions obscure day signals, night signals must be used in addition.

And it is further ordered: That the foregoing rules be printed in the working time-tables of the said railway companies for the guidance of all employees.

Subdivisions to be named setting out which of the rules are applicable to each.

Frequent service shall mean nine or more trains per diem.

And it is further ordered: That General Order No. 161, dated February 23, 1916, made herein, be, and it is hereby, rescinded.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, April 23, 1917.

GENERAL ORDER No. 189.

In the matter of "Follow Lot" Rule No. 3 of the Canadian Freight Classification; and in the matter of the railway companies being required to show cause why the rule in commodity tariffs filed in conformity with the judgment in the Eastern Rates Case, so-called; also rule No. 8 of the Canadian Freight Association's Westbound Transcontinental Tariff No. 1, stating that rule 3 of the Canadian Freight Classification will not apply in connection therewith, should not be disallowed.

File No. 25547.29.

Upon hearing the matter at the sittings of the Board held in Ottawa, November 21, 1916, and in Toronto, December 13, 1916, the Canadian Pacific, Canadian Northern, Grand Trunk, and Toronto, Hamilton & Buffalo Railway Companies, the Canadian Freight Association, the Michigan Central Railroad Company, the Canadian Manufacturers' Association, the Boards of Trade of Montreal and Toronto, the Thomas Davidson Manufacturing Company, the Sheet Metal Products, Limited, the Macdonald Manufacturing Company, and the McClary Manufacturing Company being represented at the hearing, and what was alleged; and upon the report of the Chief Traffic Officer of the Board,—

It is ordered: That the said rule No. 3 of the Canadian Freight Classification No. 16 may be amended as follows, namely:—

(1) By striking out the words, "provided first car (or cars) is loaded to the classification minimum," and substituting therefor the words, "provided that each car, except the car carrying the excess, must be loaded to its visible or marked capacity."

(2) By striking out the words defining the classification minimum as being "not less than 20,000 pounds per car," and substituting therefor the words "not less than 24,000 pounds per car."

And it is further ordered: That rules or regulations of general application, the effect of which is to deprive tariffs of various commodities of the benefit of the so-called "follow lot" rule of the Canadian Freight Classification be, and they are hereby, disallowed; provided that this order shall not be construed as preventing railway companies and shippers, if they so desire, from agreeing, in respect of a particular commodity or of particular commodities, upon commodity rates on a lower-rate basis, with or without higher weight minima, to which the said rule shall not apply.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, May 23, 1917.

GENERAL ORDER No. 190.

File No. 25672.25.

In the matter of the application of the Canadian Manufacturers' Association for an order amending the Canadian Freight Classification No. 16 by providing a carload rating for ice cream cones; or an alternative direction to the railway companies to publish carload commodity rates from Toronto to Montreal, Ottawa, Winnipeg, Regina, Calgary, Edmonton, and Vancouver.

Upon hearing the application at the sittings of the Board held in Ottawa, May 15, 1917, the Canadian Manufacturers' Association, the Canadian Freight Association, and the Canadian Pacific, Canadian Northern, and Grand Trunk Railway Companies being represented at the hearing, and what was alleged,—

It is ordered: That the Canadian Freight Classification No. 16 be, and it is hereby, amended to provide a carload rating of third class, with a minimum of 16,000 pounds, on ice cream cones.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, May 25, 1917.

SESSIONAL PAPER No. 20c

GENERAL ORDER No. 191.

In the matter of the application of the Eastern Canadian Passenger Association for an order amending rule 23 of the Regulations Governing Baggage Car Traffic in Canada, as prescribed by General Order No. 151, dated November 8, 1915.

File No. 23328.

Upon reading what is filed in support of the application, and the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That rule 23 of the Regulations Governing Baggage Car Traffic in Canada be amended by adding the following, namely:—

"STORAGE.

"Rule 23. Exception (4)—Immigrant baggage will be stored free of charge for any portion of a period of, but not exceeding, five days after arrival at the ports of Montreal, Toronto and Winnipeg."

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, May 26, 1917.

GENERAL ORDER No. 192.

In the matter of the application of the Canadian Manufacturers' Association for an order disallowing the charges made by the railway companies for salt supplied to refrigerator cars with ice.

And in the matter of the proposed tariffs of railway companies increasing the charges for ice supplied to refrigerator cars, the said tariffs having been suspended by general orders of the Board No. 164, dated April 25, 1916, and No. 165, dated May 16, 1916:

File No. 26113, Part 3.

Upon hearing the application at Ottawa, July 20, 1915, March 21, 1916, June 6, 1916, Calgary, July 10, 1916; Winnipeg, July 14, 1916; and Ottawa, December 19, 1916; the Canadian Pacific, Grand Trunk, Canadian Northern, Grand Trunk Pacific, and Ottawa & New York Railway Companies, the Michigan Central Railroad Company, the Canadian Manufacturers' Association, the Ontario Fruit Growers' Association, the Swift Canadian Company, P. Burns & Company, and the Boards of Trade of Montreal, Toronto, Winnipeg, Calgary, and Edmonton being represented at the hearings and what was alleged; and upon reading the various written submissions,—

It is ordered: That the application for an order disallowing the charges now being made by the railway companies for salt supplied to refrigerator cars with ice, be, and it is hereby, refused.

And it is further ordered: That the following tariffs showing charges for ice supplied to refrigerator cars, which were suspended by the general orders of the Board

Nos. 164 and 165, dated April 25, 1916, May 16, 1916, respectively, be, and they are hereby, disallowed:—

Carrier.	Tariff.
Canadian Pacific	C. R. C. No. E—3138
Canadian Pacific	C. R. C. No. E—3139
Canadian Pacific	C. R. C. No. W—2149
Canadian Pacific	C. R. C. No. W—2150
Grand Trunk	C. R. C. No. E—3356
Grand Trunk	C. R. C. No. E—3357
Canadian Northern	C. R. C. No. E—768
Canadian Northern	C. R. C. No. E—769
Canadian Northern	C. R. C. No. W—927
Canadian Northern	C. R. C. No. W—930
Grand Trunk Pacific	C. R. C. No. 155
Grand Trunk Pacific	C. R. C. No. 156
Esquimalt and Nanaimo	C. R. C. No. 324
Kettle Valley	C. R. C. No. 80
Michigan Central	C. R. C. No. 2524
Wabash	C. R. C. No. 936
Pere Marquette	C. R. C. No. 2015
Dominion Atlantic	C. R. C. No. 476
Quebec, Montreal and Southern	C. R. C. No. 568
Essex Terminal	C. R. C. No. 310
London and Port Stanley	C. R. C. No. 77
Toronto, Hamilton and Buffalo	C. R. C. No. 1092
Thousand Island	C. R. C. No. 287
Hull Electric	C. R. C. No. F—56
Glengarry and Stormont	C. R. C. No. 41
Windsor, Essex and Lake Shore Rapid	C. R. C. No. 177
Algoma Central and Hudson Bay	C. R. C. No. 349
Algoma Central and Hudson Bay	C. R. C. No. 348
Central Vermont	C. R. C. No. 1101
Boston and Maine	C. R. C. No. 1705
New York Central	C. R. C. No. 719
New York Central	C. R. C. No. 720
Chatham, Wallaceburg and Lake Erie	C. R. C. No. 403

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, May 30, 1917.

GENERAL ORDER No. 193.

In the matter of the application of the Canadian Freight Association, on behalf of the railway companies subject to the jurisdiction of the Board, under section 321 of the Railway Act, for approval of a proposed Supplement No. 9 to the Canadian Freight Classification No. 16, containing certain increased, reduced, and additional ratings on file with the Board under file Nos. 19367.53, 19367.64, 25672.13, 25672.14, 25672.15, and 25672.16.

Notice having been given in *The Canada Gazette* by the railway companies, as required by section 321 of the Railway Act, hearings having been held, and the proposed changes having been fixed by consent of the parties or by orders of the Board, or reserved for order of the Board; upon the consideration of what has been filed, and what was alleged at the hearings; and upon the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the proposed Supplement No. 9 to the Canadian Freight Classification No. 16, as finally revised and submitted for approval by G. C. Ransom,

Chairman of the Canadian Freight Association, by his letter dated May 12, 1917, be, and it is hereby, approved, subject to the following provisions, namely:—

1. That the proposed carload ratings and minimum weights for games or toys, other than those of iron or steel, be struck out, and that there be substituted therefor a carload rating of third class and a minimum of 14,000 pounds per car for toys and games of all kinds, as specified in the said supplement (excepting those made of iron or steel), in straight or mixed carloads.

2. That the item providing for popped corn or puffed rice confectionery be added to the grocery list of the classification, and that the ratings provided for these articles in cartons include bags.

3. That the said Supplement No. 9 give effect to the general order of the Board No. 190 of May 25, 1917, fixing a carload rating for ice cream cones.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, May 31, 1917.

GENERAL ORDER No. 194.

In the matter of the application of the Express Traffic Association of Canada, on behalf of the express companies subject to the jurisdiction of the Board, for an order authorizing the express companies to advance the estimated weight of horses, in carloads, from 10,000 pounds to 12,000 per car.

File No. 4397.33.

Upon hearing the application at the sittings of the Board held in Ottawa, February 20, 1917, the Express Traffic Association of Canada, the Department of Agriculture, the Montreal Jockey Club, the Ontario Jockey Club, and certain other parties interested being represented at the hearing, and what was alleged; and upon the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the express companies subject to the jurisdiction of the Board be, and they are hereby, authorized to amend the Express Classification for Canada so as to increase the weight upon which the express charges for the carriage of horses are based from 10,000 pounds to 12,000 pounds per carload.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, June 6, 1917.

GENERAL ORDER No. 195.

In the matter of the complaints of the Board of Trade of Toronto, Pilkington Brothers, Limited, and the Consolidated Plate Glass Company of Canada, Limited, against the proposed increase in charges for cartage as contained in tariffs filed by the various railway companies:

File No. 18663.51.

Upon hearing the complaints at the sittings of the Board held in Toronto, April 14, 1917, the Toronto Board of Trade, Pilkington Brothers, Limited, the Grand Trunk and the Canadian Pacific Railway Companies, the Michigan Central Railroad Company, the Canadian Freight Association, the Dominion Transport Company, the

Sheddon Forwarding Company, and the Montreal Board of Trade being represented at the hearing, and what was alleged,—

It is ordered: That the companies' tariffs be amended by striking out the clause reading as follows:—

"Cartage charges will be collected on cartage freight upon the same basis of weights as assessed by the railway companies."

and that there be substituted therefor the following:—

"Cartage charges will be collected on the basis of actual weight subject to the minimum provided in the Canadian Freight Classification."

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, June 23, 1917.

GENERAL ORDER No. 196.

In the matter of Section 254 of the Railway Act, and the complaints filed with the Board against the use of barb wire in fences erected and maintained by railway companies in compliance with the requirements of the said section.

File No. 9994.251.

Upon reading and considering the objections filed,

It is Ordered:—

That, in municipalities where barb wire is prohibited, all railway companies subject to the jurisdiction of the Board be, and they are hereby, forbidden to use barb wire in the future construction or reconstruction of fences along their respective lines of railway: Provided that:—

1. Barbed wire may be strung along the top of woven wire fences in stock-range country.

2. Barbed wire may be strung along the top of close board fences to prevent trespassing.

3. Barbed wire may be used along the bottom of a woven wire fence, where it is necessary to fence against pigs.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, June 29, 1917.

GENERAL ORDER No. 197.

In the matter of the complaints of the Boards of Trade of Vancouver, Edmonton, and Winnipeg, the Saskatoon Branch of the Retail Merchants' Association of Canada, Inc., the Montreal Board of Trade, and the Canadian Manufacturers' Association against the proposed increase in the "rail and water" rates between Eastern and Western Canada:

File No. 27752.

Upon the matter having been set down for hearing at Victoria, Vancouver, Nelson, Calgary, Edmonton, Saskatoon, Winnipeg, and Fort William; and upon hearing what was alleged by the representatives of the Associated Boards of Trade of Eastern British Columbia and the Canadian Pacific Railway Company,—

It is ordered: That the General Order of the Board No. 187, dated April 12, 1917, be, and it is hereby, rescinded; and the rates named in tariffs C.R.C. Nos. 1 and 2, published by G. C. Ransom, agent, are hereby allowed to become effective, with the exception of the rates on sugar to Port Arthur, Fort William, and Westfort, for furtherance.

And it is further ordered: That the present rail and water rates on sugar to Port Arthur, Fort William, and Westfort, for furtherance be, and the same are hereby, continued in effect until further order of the Board.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, July 6, 1917.

GENERAL ORDER NO. 198.

In the matter of the General Order of the Board No. 128, dated July 20, 1914, and the application of the Canadian Pacific and Grand Trunk Railway Companies for an extension of time until July 1, 1918, within which to make the changes required under said General Order No. 128.

File No. 11654.

Upon hearing the application at the sittings of the Board held in Toronto, June 13, 1917, in the presence of counsel for the applicant companies, the Canadian Northern Railway Company and representatives for the railway employees; the evidence offered and what was alleged and upon the report and recommendation of the Chief Operating Officer of the Board,—

It is ordered: That the railway companies subject to the jurisdiction of the Board be, and they are hereby, granted an extension of time until the first day of July, 1918, within which to make the changes required under the said General Order No. 128, dated July 20, 1914, the railway companies to continue their present practice of filing with the Board monthly reports of the progress made in complying with the requirements of the said Order.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, July 16, 1917.

GENERAL ORDER No. 199.

In the matter of the equipment of locomotive engines with electric headlights.

File No. 6511.

In pursuance of the powers conferred upon it by sections 30, 268, and 269 of the Railway Act and of all other powers possessed by the Board in that behalf, and upon the reports and recommendation of its Operating Officers, *it is ordered as follows:*

1. That every railway, subject to the legislative authority of the Parliament of Canada, be, and it is hereby, required to equip its locomotives used in road service, between sunset and sunrise, with headlights which will enable persons with normal vision in the cab of a locomotive, under normal weather conditions, to see a dark object the size of a man for a distance of 1,000 feet or more ahead of the locomotive; such headlight to be maintained in good condition.

2. Every locomotive used in road service, which is regularly required to run backward for any portion of its trip, except to pick up a detached portion of its train, or in making terminal movements, to have on the rear a headlight which will meet the requirements of this order.

3. Nothing in these regulations shall prevent the use of a device whereby the light may be diminished in yards and at stations to an extent that will enable a person or persons operating the locomotive to see a dark object the size of a man for a distance of 300 feet or more ahead of the locomotive under normal weather conditions.

It is further ordered: That these regulations be, and they are hereby, made applicable to all new locomotives acquired for road service, and to all road locomotives given a general overhauling subsequent to the date of this order, and that all road locomotives of the railway companies within the legislative authority of the Parliament of Canada be equipped in conformity with the requirements of these regulations not later than the first day of January, 1921.

And it is further ordered: That every such railway company failing to comply with the requirements of the provisions of these regulations will be liable to a penalty of $100 for each failure to comply therewith.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, July 24, 1917.

GENERAL ORDER NO. 200.

In the matter of the application of the Canadian Pacific Railway Company, under section 29 of the Railway Act, for an order amending order of the Board No. 3249, dated June 29, 1907, approving Canadian Freight Classification No. 13.

File No. 4364.

Upon reading the application and what was alleged in support thereof, and its appearing to the Board that the clause objected to does not provide definitely the penalty recoverable under the order,—

It is ordered: That the said order No. 3249 be, and it is hereby amended by striking out the clause in the order which reads:—

> "That any person or company violating the provisions of section 400, subsection 1 of the Railway Act, shall, in addition to the regular toll be liable to pay to the company a further toll not exceeding fifty percentum of the regular charge."

and substituting therefor the following clause, namely:—

> "That any person or company violating the provisions of section 400, subsection 1, of the Railway Act, or any amendment thereto, shall in addition to the regular toll be liable to pay the company a further toll of fifty percentum of such regular charge."

H. L. DRAYTON,
Chief Commissioner.

(Ottawa, July 24, 1917.)

SESSIONAL PAPER No. 20c

GENERAL ORDER No. 201.

In the matter of the application of the Canadian Car Service Bureau and of the Canadian Freight Association, for and on behalf of the railway companies subject to the jurisdiction of the Board and operating in Canada east and west of Port Arthur, Ont., respectively, for approval of a proposed code of Car Demurrage rules to supersede the "Canadian Car Service Rules" prescribed by the order of the Board No. 906 (General order No. 1), dated January 25, 1906:

File No. 1700.

Notice of the application having been served, under the direction of the Board, upon different shippers' organizations affected; and upon hearing the application at the sittings of the Board held at the following places and upon the dates following, namely: Victoria, Vancouver, and Nelson, in the province of British Columbia; Calgary and Edmonton, in the province of Alberta; Saskatoon and Regina, in the province of Saskatchewan; Winnipeg, in the province of Manitoba; Fort William, Toronto, and Ottawa, in the province of Ontario; and Montreal, in the province of Quebec, on the 5th, 6th 16th 18th, 19th, 20th, 21st, 22nd, and 25th days of June, 1917, respectively, and on the 5th day of July, the Canadian Manufacturers' Association, the Calgary Board of Trade, the Canadian Freight Association, the Canadian Car Service Bureau, the Swift Canadian Company, the Ashdown Hardware Company, the Western Retail Lumbermen's Association, the Winnipeg Implement Dealers' Association, The Miller & Morse Hardware Company, the Winnipeg Plate Glass Company, the Macdonald Hardware Company, and the Canadian Pacific, Grand Trunk, Grand Trunk Pacific, and Canadian Northern Railway Companies being represented at one or the other of the said sittings, the evidence offered, and what was alleged; and upon reading the written submissions filed in support of the application and on behalf of the shippers' organizations and interests affected; and upon the recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the rules hereinafter set forth shall be known as the "Canadian Car Demurrage Rules", superseding the "Canadian Car Service Rules" prescribed by the order of the Board No. 906 (General order No. 1), dated January 25, 1906:—

Rule 1.—Cars Subject to these Rules.

Cars held for or by consignor or consignee for loading, unloading, forwarding directions, or for any other purpose.

Exceptions.

(*a*) Private cars (loaded or empty) on private tracks of the car owner.
(*b*) Empty private cars stored on carriers' or private tracks.
(*c*) Cars containing freight for transhipment to vessel, when moving on through bill of lading and held at railway terminal awaiting boat.

Rule 2.—Notification.

(*a*) Notice shall be sent or given the consignee by the carriers' agent in writing, or as otherwise agreed to in writing by carrier and consignee, with all despatch after arrival of the car and billing; such notice to show the point of shipment, car initials and number and the contents, also the initials and number of the original car if transhipped in transit. If notice is mailed the consignee shall be held to have been notified at 7 o'clock a.m. following the date of mailing.

The carrier shall notify the consignee or his carter on application, where his car has been placed for unloading. Any time within the free-time allowance lost to the consignee by default of the carrier in giving such information shall be added to the free-time allowance.

(*b*) Delivery of cars upon private sidings or industrial interchange tracks shall constitute notification thereof to the consignee. If such delivery cannot be made owing to such tracks being fully occupied, or from any other cause beyond the control of the carrier, written notice of readiness so to deliver shall be given and shall constitute notification to the consignee for the purposes of these rules, in which case the free-time shall be computed from 7 o'clock a.m. of the first following day.

(*c*) In all cases where notice is required, by removing any part of the contents of the car the consignee shall be considered to have received such notice.

Rule 3.—Free-time Allowance.

(*a*) Twenty-four hours (one day) after notice of arrival (exclusive of Sundays and legal holidays) shall be allowed for any or all of the following purposes, if necessary:

(1) For clearing customs.

(2) In the case of consignees not served by private sidings or industrial interchange tracks, to give orders for special placement.

(3) For reconsignment or reshipment in same car.

(4) When cars are held in transit for inspection or grading, or are stopped in transit to complete loading, to partly unload, or to partly unload and partly reload, when such privilege of stopping in transit is allowed in the tariffs of the carriers.

(*b*) If the twenty-four hours allowed for the above mentioned purposes are exceeded demurrage shall be charged.

(*c*) Forty-eight hours (two days) free-time (exclusive of Sundays and legal holidays) shall be allowed for loading or unloading all commodities.

Exceptions.

(1) In the portion of Canada, Port Arthur and west, in which the "Canada Grain Act" applies, twenty-four hours free-time only shall be allowed for loading grain.

(2) Five days free-time shall be allowed at Montreal and at tide-water ports for unloading lumber and hay for export.

(3) Manufacturers, lumbermen, miners, contractors and others, who have their own motive power and handle cars for themselves or others, shall be granted an additional allowance of the time necessary for them to do the switching from and to the designated interchange tracks, but not to exceed twenty-four hours.

Rule 4.—Computing Time.

(*a*) On cars held for loading, time shall be computed from the first 7 a.m. after placement until loading is completed and proper billing instructions are furnished, except that on cars placed for loading grain at stations west of and including Port Arthur free-time shall be computed under the provisions of "The Canada Grain Act."

(*b*) On cars held for disposal (see Rule 3*a*), time shall be computed from the first 7 a.m. after the day on which notice of arrival is sent or given to the consignee.

(*c*) On cars held for unloading, time shall be computed from the first 7 a.m. following placement on public delivery tracks, provided notice of arrival has been sent or given to the consignee.

(*d*) On cars to be unloaded on private delivery tracks, time shall be computed from the first 7 a.m. after actual or constructive placement on such tracks.

(*e*) On cars to be loaded or unloaded on tracks of manufacturers, lumbermen, miners, contractors or others, who have their own motive power and handle cars for themselves or others, time shall be computed from the first 7 a.m. following actual or constructive placement on the interchange tracks until returned thereto. Cars returned loaded shall not be recorded released until billing instructions and other necessary data are furnished.

(*f*) When empty cars are placed for loading on orders and are not used, demurrage shall be charged from the first 7 a.m. after placement until released, without any free time allowance.

(*g*) When an empty foreign car is placed for loading via a specific route, so as to protect the ownership of the car according to the Car Service Rules, and when loaded is consigned by any other route, demurrage shall be charged until the car is unloaded and released, without any free time allowance.

(*h*) Time lost to the shipper or consignee through switching of cars, or through any other cause for which the railway company is responsible, shall be added to the free-time allowance.

(*i*) In computing free-time or demurrage time, Sundays and holidays shall be excluded. The exemption for holidays shall not include half holidays.

Rule 5.—Weather Interference.

(*a*) If wet or inclement weather, according to local conditions, renders loading or unloading impracticable during business hours, or exposes the goods to damage, the free-time allowance shall be extended so as to give the full free time of suitable weather. If, however, the cars are not loaded or unloaded within the first forty-eight hours of suitable weather no additional free-time shall be allowed.

(*b*) Should bulk freight be so frozen in transit, or before placement, as to render unloading impossible within the prescribed free-time, such additional time shall be granted as may be necessary.

Rule 6.—Bunching.

(1) *Cars for loading.*—When, by reason of delay or irregularity of the carrier in filling orders, cars are bunched and placed for loading in accumulated numbers in excess of daily orders, the shipper shall be allowed such free-time for loading as he would have been entitled to had the cars been placed for loading as ordered.

(2) *Cars for unloading or reconsigning.*—When, as the result of the act or neglect of any carrier, cars destined for one consignee, at one point, are bunched at originating point, in transit, or at destination, and are delivered by the line carrier in accumulated numbers in excess of daily shipments, the consignee shall be allowed such free time as he would have been entitled to had the cars been delivered in accordance with the daily rate of shipment.

Claims for refund of demurrage under this rule to be presented to the carrier's agent within fifteen days.

Rule 7.—Placement.

(*a*) "Actual placement" is made when a car is placed in a reasonably accessible position for loading or unloading.

(*b*) Delivery of cars to private sidings or industrial interchange tracks shall be considered to have been made when such cars have been placed thereon,

or when they would have been so placed but for some condition for which the consignee is responsible. When cars cannot be so placed, the carrier shall notify the consignee in writing that he has been unable to deliver the cars because ot the condition of the private siding or interchange tracks, or because of other conditions attributable to the consignee. This shall be considered "constructive placement."

Should the delivery require interswitching, the switching carrier shall notify the line carrier when for the aforesaid reason cars cannot be placed, and the latter shall furnish the former with particulars of cars ready for transfer (numbers and initials and points of shipment, contents and consignee, and if transhipped in transit the numbers and initials of the original cars). The switching carrier shall give this information to the consignee, with notification that the said cars are under constructive placement.

(*c*) When delivery cannot be made on specially designated public delivery tracks on account of such tracks being fully occupied, or from any other cause beyond the control of the carrier, the carrier shall send or give the consignee notice in writing, or as otherwise agreed to by carrier and consignee, of its intention to make delivery at the nearest point available to the consignee, naming the point. Such delivery shall be made unless the consignee shall before delivery indicate a preferred available point, in which case the preferred delivery shall be made.

Rule 8.—Customs or Inspection Delays.

Demurrage shall not be collected from the consignee for any delays for which Government or railway officials may be responsible.

Rule 9.—Demurrage Charge.

After the expiration of the free time allowed, the following charges shall be made until the car is released:—

For the first day, or fraction thereof, of delay	.. ..	$1 00
" second " " " "	.. ..	2 00
" third " " " "	.. ..	3 00
" fourth " " " "	.. ..	4 00
" fifth and each succeeding day, or fraction of a day	.. .. ..	5 00

Rule 10.—Nonpayment.

If payment of demurrage charges properly due on cars held on public delivery tracks be refused, delivery of only the car or cars on which such charges are due shall be withheld by means of sealing or locking, or by placing where such cars shall not be accessible.

If the owners or users of private tracks, or the owners of industrial tracks referred to in rules 3 and 4, refuse to pay any charges which may already be due, delivery of cars to such sidings or tracks shall be suspended, and delivery shall be made on any available public team track until such charges have been paid.

And it is further ordered: That this order become effective August 20, 1917.

H. L. DRAYTON,
Chief Commissioner.

Ottawa, August 1, 1917.

SESSIONAL PAPER No. 20c

GENERAL ORDER No. 202.

In the matter of the proposed increased rates on grain and grain products in the portion of Canada east of and including Fort William, which were included in, and were subsequently withdrawn by the applicants from, the application of the railway companies for a general increase in freight rates in eastern Canada, known as the Eastern Rates Case, judgment and general order in which issued June 19, 1916; the said application with respect to grain and grain products having been renewed by tariffs filed by the companies and suspended by the order of the Board No. 26172, dated June 5, 1917:

File No. 17112·3.

Upon hearing the application at the sittings of the Board held in Ottawa, June 1, 1917, in the presence of counsel for the Canadian Pacific, Grand Trunk, and Canadian Northern Railway Companies, and what was alleged; and upon reading the further submissions filed, and the report and recommendations of the Chief Traffic Officer of the Board, judgment, dated July 17, 1917, was delivered by the Assistant Chief Commissioner, and concurred in by Commissioner Goodeve, a certified copy of the said judgment being attached hereto marked "A."

It is ordered: That the order of the Board No. 26172, dated June 5, 1917, be, and it is hereby, rescinded, and the tariffs enumerated therein are hereby authorized, subject to the changes to be made therein as set forth in the said judgment dated July 17, 1917, which is hereby made part of this order.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, August 2, 1917.

GENERAL ORDER No. 203.

In the matter of the application of the Canadian Freight Association, for and on behalf of the railway companies subject to the jurisdiction of the Board, for approval of regulations for the transportation of dangerous articles other than explosives.

File No. 1717.1.

Upon hearing the matter at the sittings of the Board held in Ottawa, February 8, 1916, the Canadian Freight Association, the Canadian Manufacturers' Association, the Canadian Pacific, Grand Trunk, and Canadian Northern Railway Companies, the Michigan Central Railroad Company, the Boards of Trade of Toronto and Montreal, the Bureau of Explosives, the British American Oil Company, the Imperial Oil Company, the Dominion Match Company, the National Paint, Oil and Varnish Association, the National Chemical Company, the E. B. Eddy Company, the International Acetylene Association and Compressed Gas Manufacturers, the Compressed Gas Association, the Linds Air Products Company, the Pintsch Gas Compressing Company, the Prest-O-Lite Company, the Imperial Varnish and Colour Company, the Canadian Paint Association, the Brandram-Henderson Company, the Canada Paint Company, and Ramsay & Company being represented at the hearing, and what was alleged; and upon reading the further submissions filed, and the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the said proposed regulations for the transportation by freight of dangerous articles other than explosives, as amended, marked "A" and certified

by the secretary of the Board, on file with the Board under file No. 1717.1, be, and they are hereby, authorized, with the following exceptions, namely:—

(1) That all the restrictions pertaining to "Oil, described as 'oil,' or 'oil,' n.o.s.," or "petroleum oil." or "petroleum oil, n.o.s," as described in the list at page 8 of the regulations, be struck out, except that paragraph 1867 (*c*) be amended to provide for a certificate on the shipping order, over the signature of the shipper, or of his duly authorized agent, in the following terms: "This is to certify that the above-mentioned barrels contain.....oil only, and are in fit and proper condition for safe transportation."

(2) That the barrels at present in use for the carriage of wood alcohol, when labelled as required by the regulation pertaining thereto, be accepted for transportation, provided that the shipping order bear a certificate over the signature of the shipper, or of his duly authorized agent, in the following terms: "This is to certify that the above-mentioned barrels contain wood alcohol only, and are in fit and proper condition for safe transportation."

(3) That paragraph 1892 of the said regulations be amended to provide that when the necessary supplementary stripping to the car lining is furnished by the shipper, he shall be allowed therefor $2.50 a car.

(4) That all reference to paints be eliminated from the said regulations.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, August 11, 1917.

GENERAL ORDER No. 204.

In the matter of the application of the Canadian Freight Association, for and on behalf of the railway companies subject to the jurisdiction of the Board, for approval of revised regulations for the transportation of explosives.

File No. 1717.

Upon hearing the matter at the sittings of the Board held in Ottawa, February 8, 1916, the Canadian Freight Association, the Canadian Manufacturers' Association, the Toronto Board of Trade, the Bureau of Explosives, the Canadian Explosives, Limited, the Michigan Central Railroad Company, and the Canadian Pacific, Grand Trunk, and Canadian Northern Railway Companies being represented at the hearing, and what was alleged; and upon the consent of the Canadian Manufacturers' Association, the Canadian Explosives, Limited, and the Dominion Cartridge Company, Limited, filed,—

It is ordered: That the said revised regulations for the transportation of explosives, as amended and filed by letter dated December 16, 1916, from G. C. Ransom, Chairman, Canadian Freight Association, on file with the Board under file No. 1717, marked "A" and certified by the secretary of the Board, be, and they are hereby, authorized for the observance of the railway companies subject to the jurisdiction of the Board which accept explosives for carriage.

And it is further ordered: That the general orders of the Board No. 100, dated January 16, 1913, and No. 105, dated May 22, 1913, made herein, be, and they are hereby, rescinded.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, August 11, 1917.

SESSIONAL PAPER No. 20c

GENERAL ORDER No. 205.

In the matter of the petition of the Alberta Pacific Grain Company, Limited, and others, for an order requiring the railway companies subject to the jurisdiction of the Board to stencil inches in box cars suitable for shipments of bulk grain.

File No. 20070.

Upon hearing the matter at the sittings of the Board held in Calgary, June 18, 1917, the petitioners, the Alberta Farmers' Co-Operative Association, and the Canadian Pacific, Canadian Northern, and Grand Trunk Pacific Railway Companies being represented at the hearing, and what was alleged,—

It is ordered: That the railway companies subject to the jurisdiction of the Board be, and they are hereby, required to stencil inches on the inside walls of cars used in the grain traffic in the provinces of Manitoba, Saskatchewan, and Alberta, so as to show the depth of grain loaded therein, one stencil on each side of each door and three or four feet therefrom; all such cars hereafter built to be so stencilled before going into service, and those now in service to be so stencilled from time to time when shopped for repairs.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, August 15, 1917.

GENERAL ORDER NO. 206.

In the matter of General Order No. 203, dated August 11, 1917, authorizing Regulations for the Transportation by Freight of Dangerous Articles other than Explosives; and the application of the Canadian Manufacturers' Association for an order amending the said General Order No. 203.

File No. 1717.1.

Upon reading what is filed, and the report and recommendation of the Chief Traffic Officer of the Board,—

It is ordered: That the said General Order No. 203, dated August 11, 1917, be, and it is hereby, amended by striking out clause (4) thereof and substituting therefor the following:—

"(4) That all reference to paints and varnish be eliminated from the said Regulations."

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, September 7, 1917.

GENERAL ORDER No. 207.

In the matter of General Order No. 203, dated August 11, 1917, authorizing Regulations for the Transportation by Freight of Dangerous Articles other than Explosives, as amended by General Order No. 206, dated September 7, 1917; and the application of the Canadian Manufacturers' Association for a further Order amending the said General Order No. 203.

File No. 1717.1.

Upon reading what is filed, and the recommendation of the Chief Traffic Officer of the Board, the carriers consenting by letter from the chairman of the Canadian Freight Association, dated Montreal, October 22, 1917,—

It is ordered: That the said General Order No. 203, dated August 11, 1917, be, and it is hereby, further amended by striking out all that portion of clause (1) following the words "be struck out" in the fourth line, to the end of the clause.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, October 26, 1917.

GENERAL ORDER No. 208.

In the matter of the General Order of the Board No. 152, dated November 2, 1915, authorizing a scale of tolls chargeable by railway companies for the use of refrigerator cars for the carriage of vegetables, in carload lots; and the General Order of the Board No. 173, dated October 26, 1916, rescinding the said General Order No. 152.

And in the matter of the applications of the railway companies for renewal of the tolls authorized by the said General Order No. 152 by a refiling of tariffs showing the said tolls; and the application of the Toronto Board of Trade that the railway companies be required to justify the said proposed tolls.

File No. 18855.8.

Upon hearing the applications at the sittings of the Board held in Ottawa, April 17, 1917, the railway companies and the Toronto Board of Trade being represented, and what was alleged; and upon reading the report of the Chief Traffic Officer of the Board,

It is ordered: That the said General Order No. 173, dated October 26, 1916, be, and it is hereby, rescinded in so far as it rescinds the General Order of the Board No. 152, dated November 2, 1915; and that the tolls for the use of refrigerator cars for the carriage of vegetables, provided by the said tariffs refiled and as authorized by the said General Order No. 152, be, and they are hereby, allowed.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, October 25, 1917.

SESSIONAL PAPER No. 20c

GENERAL ORDER No. 209.

In the matter of Supplement No. 10, consolidating and replacing the previous supplements to the Canadian Freight Classification No. 16.

File No. 19367.75.

The railway companies, as represented by G. C. Ransom, chairman of the Canadian Freight Association, having published and filed a consolidation of the various supplements to the Canadian Freight Classification, and its appearing to be beneficial to all parties,—

It is ordered: That Supplement No. 10 to the Canadian Freight Classification No. 16, cancelling and superseding Supplements Nos. 1, 3, 4, 5, 6A, 7, 8, and 9, all of which were approved by Orders of the Board, be, and the same is hereby, approved.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, November 13, 1917.

GENERAL ORDER No. 210.

In the matter of the complaints of the Winnipeg, Calgary, Regina, and Saskatoon Boards of Trade and the Canadian Manufacturers' Association against the Tariffs, C.R.C. Nos. 3 and 4, effective September 1, 1917, filed on behalf of the railway companies by G. C. Ransom, agent, providing increased all-rail freight rates from Eastern Canada to points west of and including Port Arthur; and applying for an Order suspending the said tariffs.

File No. 28110.

Upon hearing the applications at the sittings of the Board held in Calgary, October 15, Edmonton, October 16, Saskatoon, October, 17, Regina, October 18, Winnipeg, October 19, and Fort William, October 20, 1917, the Boards of Trade of Calgary, Edmonton, Saskatoon, North Battleford, Regina, Moosejaw, Winnipeg, and Fort William, the Canadian Pacific, Canadian Northern, Grand Trunk Pacific, and the Edmonton, Dunvegan and British Columbia Railway Companies, the Canadian Manufacturers' Association, the Hardware Section of the Calgary Board of Trade, the Retail Merchants' Association of Saskatchewan, the Wholesalers of Saskatoon, the Province of Manitoba, and the Canadian Council of Agriculture being represented at the hearings, and what was alleged; and upon the report of the Chief Traffic Officer of the Board,—

It is ordered: That the complaints be, and they are hereby, dismissed.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, November 13, 1917.

GENERAL ORDER NO. 211.

In the matter of the complaint of the Canadian Lumbermen's Association and others against the increased carload minimum weights for lumber, both domestic and export, published to take effect on varying dates since April 22, 1917.

File No. 19475.43.

Upon hearing the complaint at the sittings of the Board held in Ottawa, July 17, 1917, the Canadian Lumbermen's Association, the Canadian Manufacturers' Associa-

tion, the Canadian Freight Association, the Boards of Trade, of Montreal and Toronto, the R. Laidlaw Lumber Company, Limited, the Montreal Lumber Association and the Canadian Pacific, Grand Trunk, and Canadian Northern Railway Companies being represented at the hearing, and what was alleged; and upon the reports of the Traffic and Operating Departments of the Board,—

It is ordered: That the carload minimum weights for lumber, for domestic consumption or for export, be as follows, namely:—

For closed cars under 35 feet in length, inside measurement	35,000 pounds.
Except that when cars loaded to full capacity will not contain 35,000 pounds, the minimum will be the actual weight, but not less than	30,000 pounds.
For closed cars, 35 feet and not over 36 feet, 6 inches in length, inside measurement	40,000 pounds.
Except that when cars loaded to full capacity will not contain 40,000 pounds, the minimum will be the actual weight, but not less than	35,000 pounds.

The term "full capacity" to permit a space of 12 inches between the top of the load and the carlines or rafters of the car.

And it is further ordered: That the schedules to give effect to this Order come into force not later than January 1, 1918.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, December 10, 1917.

GENERAL ORDER No. 212.

In the matter of the applications of the Canadian Northern, Toronto, Hamilton and Buffalo, Grand Trunk, Grand Trunk Pacific, Canadian Pacific, New York Central, Kettle Valley, and Great Northern Railway Companies and the Michigan Central and Pere Marquette Railroad Companies, on behalf of themselves and other railway companies operating in Canada subject to the jurisdiction of the Board for a recommendation to the Governor in Council, under The War Measures Act, being Chapter 2 of the Statutes of Canada for the year 1914 (second session), permitting all such railway companies to make a general advance in their tariffs of tolls of fifteen per cent on all class and commodity freight rates, except coal, and on all passengers fares; and a specific increase of fifteen cents per ton on coal.

File No. 27810.

Upon hearing the matter at the sittings of the Board held in Victoria, Vancouver, Nelson, Calgary, Edmonton, Saskatoon, Regina, Winnipeg, Fort William, Toronto, Montreal and Ottawa on the 5th, 6th, 16th, 18th, 19th, 20th, 21st, 22nd, 25th, 12th and 20th days of June, 1917, and the 10th day of January, 1918, respectively, in the presence of counsel for and representatives of the Canadian Pacific, Grand Trunk, Grand Trunk Pacific, Canadian Northern, and New York Central Railway Companies, the Michigan Central Railroad Company, the Board of Trade of Vancouver, Nelson, Calgary, Edmonton, Saskatoon, Regina, Winnipeg, Toronto, Montreal, and Kitchener, the Canadian Manufacturers' Association, Kitchener Manufacturers' Association, British Columbia Lumber & Shingle Manufacturers, Limited, Wholesale Lumbermen's Association of Winnipeg, Rat Portage Lumber Company, Limited, the Adolph

Lumber Company, Retail Coal Dealers, Retail Merchants Association of Canada (Manitoba branch), Canadian Credit Men's Association, Winnipeg Implement Association, Stone Dealers' Association, St. Catharines Fruit Growers' Association, Willow Point District Fruit Growers' Association, Kootenay Fruit Growers' Union, United Farmers of the West, United Farmers of Ontario, Saskatchewan Grain Growers' Association, Northwest Grain Dealers' Association, Winnipeg Grain Exchange, Saskatoon Co-operative Elevator Company, Dominion Livestock Record Board, Western Livestock Association, Canadian Council of Agriculture, Council of Trail, City of Winnipeg, Province of Manitoba, Department of Public Highways for Ontario, Associated Boards of Trade of Eastern British Columbia, Dominion Canners, Price Brothers, and J. H. Ashdown & Company, the evidence adduced, and what was alleged; and upon reading the written submissions filed, judgments dated December 26, 1917, and January 15, 1918, were delivered by the Chief Commissioner and concurred in by the members of the Board who sat in the original hearings, certified copies of the said judgments, marked "A" and "B" respectively being attached hereto; and General Order No. 213, dated December 26, 1917, prescribing the standard maximum mileage tolls under the terms of the Judgment of December 26, 1917, having issued.—

It is ordered: That, subject to the provisions of the Crow's Nest Pass agreement and the said judgment of December 26, 1917, which is hereby made part of this Order, the special freight tariffs issued under the authority of the judgment, except those applying on wheat, in carloads, to Port Arthur and Fort William, be, and they are hereby, required to be published and filed at least five days previous to the date on which they are to become effective, which date shall not be earlier than February 1, 1918.

And it is further ordered: That the rates authorized by the judgment to be charged on wheat, in carloads, to Port Arthur and Fort William only, may be made effective not earlier than June 1, 1918.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, January 15, 1918.

GENERAL ORDER No. 213.

In the matter of the applications of the Canadian Northern, Toronto, Hamilton and Buffalo, Grand Trunk, Grand Trunk Pacific, Canadian Pacific, New York Central, Kettle Valley, and Great Northern Railway Companies and the Michigan Central and Pere Marquette Railroad Companies, on behalf of themselves and other railway companies operating in Canada, subject to the jurisdiction of the Board, for a recommendation to the Governor in Council, under the War Measures Act, being Chapter 2 of the Statutes of Canada for the year 1914 (second session), permitting all such railway companies to make a general advance in their tariffs of tolls of 15 per cent on all class and commodity freight rates, except coal, and on all passenger fares, and a specific increase of 15 cents per ton on coal.

File No. 27840.

Upon hearing the matter at the sittings of the Board held in Victoria, Vancouver, Nelson, Calgary, Edmonton, Saskatoon, Regina, Winnipeg, Fort William, Toronto, and Montreal, on the 5th, 6th, 16th, 18th, 19th, 20th, 21st, 22nd, 25th, 12th and 20th days of June, 1917, respectively, in the presence of counsel for and representatives of the Canadian Pacific, Grand Trunk, Grand Trunk Pacific, Cana-

dian Northern, and New York Central Railway Companies, the Michigan Central Railroad Company, the Boards of Trade of Vancouver, Nelson, Calgary, Edmonton, Saskatoon, Regina, Winnipeg, Toronto, Montreal, and Kitchener, the Canadian Manufacturers' Association, Kitchener Manufacturers' Association, British Columbia Lumber and Shingle Manufacturers, Limited, Rat Portage Lumber Company, Limited, The Adolph Lumber Company, Retail Coal Dealers, Retail Merchants' Association of Canada (Manitoba Branch), Canadian Credit Men's Association, Winnipeg Implement Association, Stone Dealers' Association, St. Catharines Fruit Growers' Association, Willow Point District Fruit Growers' Association, Kootenay Fruit Growers' Union, United Farmers of Ontario; Saskatchewan Grain Growers' Association, Dominion Livestock Record Board, Western Livestock Association, Canadian Council of Agriculture, Department of Public Highways for Ontario, the Council of Trail, City of Winnipeg, Provincial Government of Manitoba, Associated Boards of Trade of Eastern British Columbia, Dominion Canners, and Price Brothers, the evidence adduced, and what was alleged; and upon reading the written submissions filed, judgment, dated December 26, 1917, was delivered by the Chief Commissioner and concurred in by the other members of the Board, a certified copy of the said judgment being attached hereto marked "A,"—

It is ordered: That, subject to the provisions of the Crow's Nest Pass Agreement and to the provisions of the said judgment, the standard tariffs of maximum mileage tolls approved by the Board to be charged between stations on the individual steam railway systems subject to its jurisdiction, may, by new tariffs to be submitted for the Board's approval and publication in the *Canada Gazette* as required by sections 327 and 331 of the Railway Act, and following such approval and publication made effective not earlier than the 1st day of February, 1918, be increased as follows, namely:—

Standard passenger tariffs applying between stations on railways east of and including Thornton, Alta., and east of and including the lines of the Canadian Northern Railway between Edmonton and Athabaska and the Canadian Pacific Railway between Edmonton and Macleod, through Calgary, where the existing standard toll is less than three and one-half cents per mile, by 15 per cent, subject to a maximum toll of three and forty-five hundredths cents per mile.

Standard freight tariffs in the province of Alberta west of and including Canmore and Edson, and in the province of British Columbia, excepting between ports of call on the Arrow, Slocan, Kootenay and Okanagan lakes and the Columbia river, also the standard freight tariff of the Edmonton, Dunvegan and British Columbia Railway Company, by 10 per cent.

Standard freight tariffs of railways east of and including Crow's Nest, British Columbia, Canmore, Alberta, Nordegg, Alberta, and Edson, Alberta, also those applying between ports of call on the Arrow, Slocan, Kootenay and Okanagan lakes and the Columbia river, by 15 per cent.

And it is further ordered: That, in the interest of uniformity, the only fractional rate (if used) in the said standard freight tariffs be the half-cent, to be accounted the equivalent, inclusively, of twenty-five hundredths to seventy-four hundredths of a cent.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, December 26th, 1918.

SESSIONAL PAPER No. 20c

GENERAL ORDER No. 214.

In the matter of the application of the undermentioned railway companies for approval of their Standard Passenger tariffs of maximum mileage tolls.

File No. 27840.20.

Standard Passenger Tariffs having been filed on the basis permitted by the Board in its General Order No. 213, dated December 26, 1917:—

It is ordered: That the following standard tariffs of maximum mileage tolls for the carriage of passengers be, and they are hereby, approved; the said tariffs, together with a reference to this Order, to be published in at least two consecutive weekly issues of the *Canada Gazette*.

Canadian Northern Railway	C.R.C. No.	W-1492
Canadian Northern Railway	C.R.C. No.	E-1064
Canadian Pacific Railway	C.R.C. No.	E-3187
Central Vermont Railway	C.R.C. No.	502
Dominion Atlantic Railway	C.R.C. No.	404
Grand Trunk Railway	C.R.C. No.	E-2669
Grand Trunk Pacific Railway	C.R.C. No.	660
Glengarry and Stormont Railway	C.R.C. No.	2
Halifax and South Western Railway	C.R.C. No.	P-77
Michigan Central Railroad	C.R.C. No.	2441
Napierville Junction Railway	C.R.C. No.	92
New York Central Railroad	C.R.C. No.	N.Y.C. 191
Pere Marquette Railroad	C.R.C. No.	580
Quebec, Montreal and Southern Railway	C.R.C. No.	262
Toronto, Hamilton and Buffalo Railway	C.R.C. No.	1209

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, January 10, 1918.

GENERAL ORDER No. 214-A.

In the matter of the application of the undermentioned railway companies for approval of their Standard Passenger tariffs of maximum mileage tolls.

File No. 27840.20.

Standard passenger tariffs having been filed on the basis permitted by the Board in its General Order No. 213, dated December 26, 1917,—

It is ordered: That the following standard tariffs of maximum mileage tolls for the carriage of passengers be, and they are hereby, approved; the said tariffs, together with a reference to this Order, to be published in at least two consecutive weekly issues of *The Canada Gazette*:—

Great Northern Railway	C.R.C. No. 1161
Maine Central Railroad	C.R.C. No. 214
Temiscouata Railway	C.R.C. No. 66
Wabash Railway	C.R.C. No. 996

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, January 17, 1918.

GENERAL ORDER No. 214-B.

In the matter of the application of the undermentioned railway companies for approval of their Standard Passenger Tariffs of maximum mileage tolls.

File No. 27840.20.

Standard passenger tariffs having been filed on the basis permitted by the Board in its General Order No. 213, dated December 26, 1917,—

It is ordered: That the following standard tariffs of maximum mileage tolls for the carriage of passengers be, and they are hereby, approved; the said tariffs, together with a reference to this order, to be published in at least two consecutive weekly issues of the *Canada Gazette*:—

Boston and Maine Railroad.. .. .. C.R.C. No. 305
Moncton and Buctouche Railway.. .. .. C.R.C. No. 27

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, January 24, 1918.

GENERAL ORDER No. 214-C.

In the matter of the application of the undermentioned railway companies for approval of their Standard Passenger Tariffs of maximum mileage tolls:

File No. 27840.20.

The said standard passenger tariffs, issued to take effect March 15, 1918, having been filed on the basis permitted by the Board in its General Order No. 213, dated December 26, 1917,—

It is ordered: That, subject to the provisions of Order in Council No. P.C. 229, dated January 30, 1918, and such other Order in Council as may be issued, the following standard tariffs of maximum mileage tolls for the carriage of passengers be, and they are hereby, approved; the said tariffs, together with a reference to this order, to be published in at least two consecutive weekly issues of *The Canada Gazette*:—

Elgin and Havelock Railway.. .. .. C.R.C. No. 5
Northern Pacific Railway.. .. .. C.R.C. No. 317

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, February 15, 1918.

GENERAL ORDER No. 215.

In the matter of the application of the undermentioned railway companies for approval of their Standard Freight Tariffs of Maximum Mileage Tolls.

File No. 27840.21.

The said Standard freight tariffs having been filed on the basis permitted by the Board in its General Order No. 213, dated December 26, 1917,—

It is ordered: That the following Standard freight tariffs of maximum mileage tolls be, and they are hereby, approved; the rate scales of the said tariffs to be published in at least two consecutive weekly issues of *The Canada Gazette* and preceded by the following notice:—

> The undermentioned standard freight tariffs having been filed for the approval of the Board of Railway Commissioners for Canada, and being found by the Board to be in accordance with its General Order No. 213, dated December 26, 1917, and having been approved by the General Order of the Board No. 215, dated January 17, 1918, the rate scales thereof are hereby published as required by section 327 of the Railway Act:—

Algoma Central and Hudson Bay Railway	C.R.C. No. 141
Algoma Eastern Railway	C.R.C. No. 195
Atlantic, Quebec and Western Railway	C.R.C. No. 20
Boston and Maine Railroad	C.R.C. No. 1812
Canadian Northern Railway	C.R.C. No. W-1052
Canadian Northern Railway	C.R.C. No. E-1007
Canadian Pacific Railway	C.R.C. No. W-2300
Canadian Pacific Railway	C.R.C. No. E-3379
Central Vermont Railway	C.R.C. No. 1204
Dominion Atlantic Railway	C.R.C. No. 552
Edmonton, Dunvegan and British Columbia Railway	C.R.C. No. 65
Esquimalt and Nanaimo Railway	C.R.C. No. 371
Glengarry and Stormont Railway	C.R.C. No. 80
Grand Trunk Railway	C.R.C. No. E-3735
Grand Trunk Pacific Railway	C.R.C. No. 244
Great Northern Railway—	
Manitoba, Great Northern Railway	C.R.C. No. 1352
Brandon, Saskatchewan and Hudson Bay Railway	C.R.C. No. 1353
Crows Nest Southern Railway	C.R.C. No. 1354
New Westminster Southern Railway Nelson and Fort Sheppard Railway Vancouver, Victoria and Eastern Railway and Navigation Company Red Mountain Railway Kettle Valley Railway	C.R.C. No. 1355
Victoria and Sydney Railway	C.R.C. No. V-50
Halifax and South Western Railway	C.R.C. No. F-51
Kettle Valley Railway	C.R.C. No. 139
Maine Central Railroad	Supplement 2 to C.R.C. No. C-1184
Michigan Central Railroad	C.R.C. No. 2735
Napierville Junction Railway	C.R.C. No. 191
New York Central Railroad	C.R.C. No. 1225
New York Central Railroad	C.R.C. No. 1226
Pere Marquette Railway	C.R.C. No. 2144
Quebec, Montreal and Southern Railway	C.R.S. No. 640
Quebec Oriental Railway	C.R.C. No. 29
Temiscouata Railway	C.R.C. No. 300
Thousand Islands Railway	C.R.C. No. 332
Toronto, Hamilton and Buffalo Railway	C.R.C. No. 1192

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, January 18, 1918.

GENERAL ORDER No. 215-A.

In the matter of the application of the undermentioned railway companies for approval of their Standard Freight Tariffs of Maximum Mileage Tolls.

File No. 27840.21.

The said standard freight tariffs having been filed on the basis permitted by the Board in its General Order No. 213, dated December 26, 1917,—

It is ordered: That the following standard freight tariffs of maximum mileage tolls be, and they are hereby, approved; the said tariffs, together with reference to this Order, to be published in at least two consecutive weekly issues of *The Canada Gazette*.

Moncton and Buctouche Railway.. .. .. C.R.C. No. 29
Quebec Railway, Light and Power Company.. .. C.R.C. No. 103

H. L. DRAYTON,
Chief Commissioner.

Ottawa, January 24, 1918.

GENERAL ORDER No. 215-B.

In the matter of the application of the undermentioned railway companies for approval of their Standard Freight Tariffs of Maximum Mileage Tolls.

File No. 27840.21.

The said standard freight tariffs, issued to take effect March 15, 1918, having been filed on the basis permitted by the Board in its general order No. 213, dated December 26, 1917.

It is ordered: That, subject to the provisions of Order in Council No. P.C. 229, dated January 30, 1918, and such other Order in Council as may be issued, the following standard freight tariffs of maximum mileage tolls be, and they are hereby, approved; the said tariffs, together with a reference to this order, to be published in at least two consecutive weekly issues of *The Canada Gazette*:—

Elgin and Havelock Railway.. .. .. C.R.C. No. 5
Essex Terminal Railway.. .. .. C.R.C. No. 457
Northern Pacific Railway.. .. .. C.R.C. No. 376

H. L. DRAYTON,
Chief Commissioner.

Ottawa, February 25, 1918.

GENERAL ORDER No. [illegible]

In the matter of the application of the Oshawa Railway Company for approval of its Standard Freight Tariffs of maximum mileage tolls.

File No. 27840.21.

The said Standard Freight Tariff having been filed on the basis permitted by the Board in its General Order No. 213, dated December 26th, 1917—

It is ordered: That the Standard Freight Mileage Tariff of the Oshawa Railway Company, C.R.C. No. 15, dated to become effective April 15th, 1918, be, and the same is hereby, approved; the said tariff, with a reference to this Order, to be published in at least two consecutive weekly issues of *The Canada Gazette*.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, April 2, 1918.

GENERAL ORDER No. 216.

In the matter of the General Order of the Board No. 188, dated April 23, 1917, prescribing regulations for the Uniform Maintenance of Way Flagging Rules for Impassable Track, for the observance of every railway company within the legislative authority of the Parliament of Canada.

File No. 4135.25.

Upon reading the submissions filed, and the report and recommendation of the Chief Operating Officer of the Board,—

It is ordered: That the said General Order No. 188, dated April 23, 1917, be, and it is hereby, amended by adding after the words "Frequent service shall mean nine or more trains per diem," near the end of the Order, the words, "Fast train service shall mean a service at a speed of thirty-five miles or more an hour."

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, January 24, 1918.

GENERAL ORDER No. 217.

In the matter of the complaints of the Canadian Manufacturers' Association and the Toronto Board of Trade against the proposal of the railway companies, by schedules filed to become effective October 15, 1917 (Michigan Central, November 1, 1917), to increase the aggregate minimum weight of less-than-carload shipments of fresh meat, dressed poultry, packing-house products, butter, and eggs, when loaded in refrigerator cars on private sidings in Eastern Canada, from 9,000 to 15,000 pounds per car, the said schedules having been suspended by the Order of the Board No. 26634, dated October 13, 1917.

File No. 18855·22.

Upon hearing the complaints at the sittings of the Board held in Ottawa, November 20, 1917, the Canadian Manufacturers' Association, the Toronto Board of Trade, and the Canadian Pacific, Grand Trunk, and Canadian Northern Railway Companies being represented at the hearing, and what was alleged; and upon reading the further written submissions filed,—

It is ordered: That the railway companies in Eastern Canada subject to the jurisdiction of the Board be, and they are hereby, granted leave to increase the aggregate minimum weight of less-than-carload shipments of fresh meat, dressed poultry, packing-house products, butter, and eggs, when loaded in refrigerator cars on private sidings, from 9,000 to 12,000 pounds per car.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, January 28, 1918.

GENERAL ORDER No. 218.

In the matter of the General Order of the Board No. 78, dated July 14, 1911, as amended by General Order No. 106, dated June 27, 1913, and Order No. 24803, dated March 16, 1916, prescribing the rules and instructions for the inspection and testing of locomotive boilers and their appurtenances, to be adopted by the railway companies subject to the jurisdiction of the Board.

File No. 16513.

Upon the report and recommendation of the Mechanical Expert of the Board, concurred in by its Chief Operating Officer; and upon reading the submissions filed,—

It is ordered: That the said General Order No. 78 (Order No. 14115), dated July 14, 1911, be modified as follows, namely:—

1. *Rule 5. Flues to be removed.*—All flues of boilers in service, except as otherwise provided, shall be removed at least once in every four years, and a thorough examination shall be made of the entire interior of the boiler. After flues are taken out, the inside of the boiler must have the scale removed and be thoroughly cleaned.

2. *Rule 11. Lagging to be removed.*—The date for the removal of lagging for the purpose of inspecting the exterior of locomotive boilers, as provided by rule 11, except where indications of leaks exist, shall be advanced until December 31, 1918.

3. *Rules 16 and 17.* Each time a hydrostatic test is applied the hammer test required by rules 16 and 17 shall be made while the boiler is under hydrostatic pressure, not less than the allowed working pressure, and proper notation of such test made on form No. 1.

4. *Rule 18. Method of testing flexible staybolts with caps.*—All flexible staybolts having caps over the outer ends shall have the caps removed at least once every two years, and also whenever the Board's inspector or the railway company's inspector considers the removal desirable in order thoroughly to inspect the staybolts. The fire-box sheets should be examined carefully at least once a month, to detect any bulging or indications of broken staybolts.

5. That the modifications herein provided for remain in effect until December 31, 1918.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, February 11, 1918.

GENERAL ORDER No. 219.

In the matter of the General Orders of the Board Nos. 95 and 160, dated respectively November 2, 1912, and February 24, 1916, requiring railway companies subject to the jurisdiction of the Board, whenever any such company issues an embargo against any traffic, to file with the Board a copy of such embargo within forty-eight hours thereafter.

File No. 19801.

Whereas the American Railway Association and the Canadian Railway Association for National Defence have adopted general regulations to expedite the transmission and handling of embargoes;

Upon reading the said regulations; and upon the report and recommendation of the Chief Operating Officer of the Board,—

It is ordered: That the said General Orders Nos. 95 and 160 be amended to provide that during the existence of the Canadian Railway Association for National Defence and the continuance of the zone divisions under chairmen, as provided by the said regulations, the zone chairmen shall file copies of all embargo notices to the secretary of the Board, within the time limited by the said General Orders; and that the railway companies be relieved from filing such notices, as required by the said General Orders.

And it is further ordered: That this Order shall be and remain effective for the period the Canadian Railway Association for National Defence continues in existence and the regulations covered by the General Order of the American Railway Association, No. C.S. 17 and the circular of the Canadian Railway Association for National Defence, dated January 28, 1918 are operative.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, February 9, 1918.

GENERAL ORDER No. 220.

In the matter of the applications of J. Coughlan & Sons, Vancouver, and the Canadian Retail Coal Association (Ontario) for a ruling by the Board in connection with Rule 3 of the Car Demurrage Code.

File Nos. 1700.199 and 1700.207.

Upon the report and recommendation of the Chief Traffic Officer of the Board, and reading what is filed,—

It is ordered: That the following clause be added to Rule 3 of the Canadian Car Demurrage Rules, namely:

> "(*d*) Delays beyond the free periods allowed for any two or more purposes under this rule shall be aggregated and charged for in accordance with Rule 9, unless reconsignment effects actual transfer of ownership of the goods, in which case the charge against the new consignee for delay beyond the free unloading period shall begin with the lowest toll."

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, February 11, 1918.

GENERAL ORDER No. 221.

In the matter of the application of the Canadian Manufacturers' Association for an order disallowing the increased carload minimum weights of tan bark, published in Supplement No. 8 to the Canadian Pacific Railway Company's Tariff C.R.C. No. E-3225, and Supplement No. 1 to the Grand Trunk Railway Company's Tariff C.R.C. No. E-3477.

File No. 19475.41.

Upon hearing the application at the sittings of the Board held in Ottawa, November 20, 1917, the Canadian Manufacturers' Association, the Canadian Freight Associa-

tion, and the Grand Trunk, Canadian Pacific and Canadian Northern Railway Companies being represented at the hearing, and what was alleged; and upon reading the further submissions filed,—

It is ordered: That the minimum carload weights of tan bark, when carried under special commodity tariffs, be as follows, namely:—

For cars not over 30 feet 6 inches in length, inside or platform measurement, 21,000 pounds.

For cars over 30 feet 6 inches and not over 34 feet 6 inches in length, inside or platform measurement, 23,000 pounds.

For cars over 34 feet 6 inches and not over 36 feet 6 inches in length inside measurement for box and stock cars, and not over 36 feet 10 inches platform measurement for flat cars, 28,000 pounds.

And it is further orderd: That the schedules to give effect to this order be published and filed to take effect not later than the 11th day of March, 1918.

D'ARCY SCOTT,
Assistant Chief Commissioner.

OTTAWA, February 26, 1918.

GENERAL ORDER No. 222.

In the matter of the complaint of the Canadian Manufacturers' Association, on behalf of the packing industry, that railway companies refuse to accept oleomargarine as part of the minimum weight of packing-house products, loaded in so-called pedlar cars on private sidings.

File No. 18855.22.1.

Upon hearing the complaint at the sittings of the Board held in Ottawa, March 19, 1918, the Canadian Manufacturers' Association, the Canadian Freight Association, the Toronto Board of Trade, the Pere Marquette Railroad Company, and the Canadian Pacific, Grand Trunk, and Canadian Northern Railway Companies being represented at the hearing, and what was alleged,—

It is ordered: That the tariffs of the said railway companies providing for the transportation of packing-house products, fresh meats, and other articles in pedlar cars, be revised so as to include oleomargarine as a packing-house product.

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, March 19, 1918.

SESSIONAL PAPER No. 20c

GENERAL ORDER No. 223,

In the matter of the General Order of the Board No. 204, dated August 11, 1917, authorizing for the observance of the railway companies subject to the jurisdiction of the Board which accept explosives for carriage, the revised regulations for the transportation of explosives, as amended and filed by letter dated December 16, from G. C. Ransom, chairman of the Canadian Freight Association, on file with the Board under file No. 1717, marked "A."

Upon reading what is filed on behalf of the Canadian Freight Association,—

It is ordered: That paragraph No. 1644, (*b*) and (*c*), of the said Regulations for the Transportation of Explosives, as authorized by the said General Order No. 204, dated August 11, 1917, be, and it is hereby, amended to read as follows, namely:—

"1644 (*b*). Dangerous Explosives for which a certified and placarded car is prescribed (see paragraph 1661), must not be loaded higher than the car lining.

"(*c*) When the lading of a car consists of or includes explosives, the weight of the lading should be distributed so that it will be equalized on each side of the car and over the trucks."

H. L. DRAYTON,
Chief Commissioner.

OTTAWA, March 28, 1918.

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